

**PURCHASE AND SALE AGREEMENT**

**by and between**

**METRO KNOXVILLE HMA, LLC,  
a Tennessee limited liability company**

**("Seller")**

**and**

**CITY OF KNOXVILLE, TENNESSEE,  
a municipal corporation organized and existing under the laws of the State of Tennessee**

**("Purchaser")**

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "**Agreement**") is entered into by and between METRO KNOXVILLE HMA, LLC, a Tennessee limited liability company ("**Seller**"), and CITY OF KNOXVILLE, TENNESSEE, a municipal corporation organized and existing under the laws of the State of Tennessee ("**Purchaser**").

### WITNESSETH:

For and in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Purchaser agree as follows:

#### ARTICLE I DEFINITIONS & CONSTRUCTION

1.01 **Definitions.** For purposes of this Agreement, each of the following terms, when used with an initial capital letter, shall have the meaning ascribed to it in this Article:

(i) "**Affiliate**" means any person or entity that owns or controls, is owned or controlled by, or is under common ownership or control with the party in question. As used in the preceding sentence, (A) an entity shall be deemed to own another entity if it holds legal or equitable title to fifty percent (50%) or more of the common stock, partnership interests, limited partnership interests, membership interests or other ownership interests of such other entity, and (B) the term "control" (and its derivatives) shall mean the possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through voting rights, by contract or otherwise.

(ii) "**Business Days**" means Monday through Friday, excluding federal holidays on which national banking associations in Knoxville, Tennessee are authorized to be closed.

(iii) "**Closing**" means the closing and consummation of the purchase and sale of the Property pursuant to this Agreement.

(iv) "**Closing Date**" means the date upon which the Closing occurs.

(v) "**Current Tax Period**" means the tax year in which the Closing occurs.

(vi) "**Effective Date**" means the latest date upon which Seller or Purchaser executes this Agreement, as shown on the signature block set forth below.

(vii) "**Entity**" means any person, partnership, limited partnership, joint venture, corporation, limited liability company, trust, governmental authority or other entity.

(viii) "**Escrow Agent**" means Tennessee Valley Title Insurance Co., 800 S. Gay Street, Suite 1700, Knoxville, Tennessee 37929, Attention: Ryan P. McNally, Esq., Phone: (865) 523-6254, Email: ryan@tnvalleytitle.com.

(ix) "**Hazardous Substances**" means all hazardous wastes, hazardous substances, extremely hazardous substances, hazardous constituents, hazardous materials and toxic substances that are regulated under any Legal Requirements pertaining to health, safety or the environment, including, but not

limited to, (A) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq., (B) the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. § 5101 et seq., (C) the Resource, Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq., (D) the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., (E) the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq., (F) the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (G) any so-called "superfund" or "superlien" law, and (H) or any other Federal, State, or local statute, or law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability for standards of conduct concerning any substance or material, as presently in effect.

(x) **"Inspection Period"** shall have the meaning ascribed to it in Section 3.01.

(xi) **"Intangibles"** means all right, title and interest of Seller in and to (A) all certificates of occupancy or use, permits and licenses held by Seller, if any, which relate exclusively to the ownership, use or operation of the Real Property, (B) all unexpired warranties and guaranties, if any, which relate exclusively to the Real Property, in each case, only to the extent the same are freely transferrable by Seller without cost or consent, and (C) all licenses or similar arrangements granted to third parties that are Permitted Exceptions. For the avoidance of uncertainty, the parties acknowledge and agree that the "Intangibles" shall not include (i) any of the items described above which relate to or are used in connection with the business operations of Seller or any of its Affiliates or any real property (other than the Real Property) owned or leased by Seller or any of its Affiliates, or (ii) any names, trademarks, logos or other symbols used in connection with the Real Property.

(xii) **"Legal Requirements"** means all applicable governmental laws, statutes, codes, ordinances, rules, regulations, orders, judgments and decrees.

(xiii) **"Monetary Liens"** means all liens, mortgages, deeds of trust, financing statements and other security interests encumbering the Property that were granted by Seller or are the direct result of the affirmative acts of Seller. Monetary Liens shall not include (A) the lien for unpaid Property Taxes for the Current Tax Period and subsequent years and (B) any liens under the Permitted Exceptions that secure amounts first (1<sup>st</sup>) arising after the Closing.

(xiv) **"Owner's Title Policy"** means an owner's title insurance policy issued by Escrow Agent that insures Purchaser is the owner of the Real Property, subject to the Permitted Exceptions, is in the amount of the Purchase Price, and is based on the Title Commitment.

(xv) **"Permitted Exceptions"** means (A) Property Taxes for the Current Tax Period and subsequent years, (B) zoning regulations and other governmental laws, rules, regulations, codes, orders and directives affecting the Property, (C) matters arising as a result of the acts or omissions of Purchaser or any of its Affiliates, agents, employees, contractors or representatives, and (D) those matters disclosed by the Title Commitment or the Survey and not objected to or waived by the Purchaser pursuant to Section 3.02.

(xvi) **"Phase I Environment Assessment"** mean a Phase I environmental site assessment conducted in accordance with the standards set forth in ASTM E1527-05.

(xvii) **"PILOT Leases"** shall have the meaning set forth in Section 7.03(b)(iv).

(xviii) **"Property"** means the Real Property and the Intangibles.

(xix) **"Property Taxes"** means the real property taxes and assessments (general and special, public and private) levied against the Real Property.

(xx) **"Purchase Price"** shall have the meaning set forth in Section 2.02.

(xxi) **"Real Property"** means all right, title and interest of Seller in and to the real property generally located at 900 East Oak Hill Avenue, Knoxville, Tennessee, generally depicted in red on Schedule 1.01 (xxv), and more particularly described in the legal descriptions included in Schedule 1.01(xxv), including, but not limited to, the buildings, structures, fixtures, and other improvements located on said real property.

(xxii) **"Required Closing Date"** means the date which is seventy-five (75) days after the end of the Inspection Period, as the same may be extended pursuant to the express provisions of this Agreement.

(xxiii) **"Seller's Actual Knowledge"** means the actual, affirmative knowledge of a current officer of Seller without any diligence, inquiry, investigation or imputation.

(xxiv) **"Submission Items"** means the items described on Schedule 1.01(xxix) to the extent the same are under the possession or, to Seller's Actual Knowledge, control of Seller; provided the "Submission Items" shall not include any such item that Seller is prohibited from disclosing under any applicable Legal Requirements if Seller provides to Purchaser a description of such item and the Legal Requirement that prohibits such disclosure.

(xxv) **"Title Commitment"** means the Commitment for an ALTA Owner's Extended Coverage Policy of Title Insurance (2006) issued by or through the Escrow Agent (as agent for First American Title Insurance Company) that shows the status of title to the Real Property.

(xxvi) **"Transaction Documents"** means this Agreement and the documents executed by Seller and/or Purchaser at the Closing.

## ARTICLE II PURCHASE & SALE

2.01 Purchase & Sale. Subject to and in accordance with the terms of this Agreement, Seller agrees to sell all of its right, title and interest in the Property to Purchaser and the Purchaser agrees to purchase all of Seller's rights, title and interest in the Property from Seller.

2.02 Purchase Price. At the Closing, Purchaser shall pay One Dollar (\$1.00) for the Property (the **"Purchase Price"**) to Seller, in immediately available funds, less any adjustments expressly provided for in ARTICLE VIII.

## ARTICLE III INSPECTION

### 3.01 Inspection.

(a) For purposes of this Agreement, the term **"Inspection Period"** means and refers to the period commencing on the Effective Date and expiring one-hundred twenty (120) days thereafter.

(b) During the Inspection Period, Purchaser shall conduct its inspection of the Property, subject to the other terms and conditions hereof, including, without limitation, Section 3.03. Purchaser shall be solely responsible for conducting all inspections and investigations required to confirm the Property is

satisfactory to Purchaser. Purchaser may terminate this Agreement for any reason, as determined by Purchaser in its sole and absolute discretion, by giving written notice to Seller on or before the last day of the Inspection Period.

3.02 Title & Survey Review. Seller has obtained and provided to Purchaser, the Title Commitment and copies of all exception documents referenced therein, and Seller shall obtain and deliver to Buyer an ALTA survey of the Real Property prepared by Benchmark Associates, Inc. (the "Survey") within thirty (30) days of the date hereof. After delivery of such Survey, within ten (10) days after written request from Seller, Purchaser shall reimburse Seller for the actual costs of the Title Commitment and Survey, which reimbursement obligation of Purchaser shall survive termination of this Agreement. If the Title Commitment or the Survey, or any update to either of them, reveal any material defects in title to the Property, then Purchaser may object to such defects by giving written notice to Seller prior to the expiration of the Inspection Period (any such objections being referred to as the "Title & Survey Objections"). Seller may, but shall not be obligated to, endeavor to cure the Title & Survey Objections, and Seller shall have the right to postpone the Closing for up to thirty (30) days in connection therewith. All matters shown on the Title Commitment and Survey to which Purchaser does not timely object, in accordance with the terms of this Section 3.02, shall be deemed to have been approved by Purchaser. In the event Seller does not cure any of the Title & Survey Objections by the date the Closing is scheduled to occur, then Purchaser may, as its sole and exclusive remedy, either: (i) terminate this Agreement by giving written notice to Seller prior to the Closing; or (ii) waive such Title & Survey Objections and proceed with the Closing. Notwithstanding the foregoing, if Seller notifies Purchaser, in writing, that it is unable or unwilling to cure any of the Title & Survey Objections, then Purchaser must give written notice to Seller within ten (10) business days thereafter of its intent to waive such Title & Survey Objections or Purchaser shall be deemed to have terminated this Agreement.

3.03 Entry & Access. During the Inspection Period, Purchaser and its agents, employees, contractors and representatives shall have the right to enter upon the Property for purposes of performing inspections, surveys, environmental audits and other similar activities; provided (i) Purchaser shall obtain Seller's prior written approval of the scope and method of any environmental testing or investigation which would materially alter the physical condition of the Property, which approval shall not be unreasonably withheld or delayed, (ii) Purchaser shall comply with the terms of this Agreement, any existing leases, the Permitted Exceptions and Legal Requirements, and (iii) Purchaser shall not materially interfere with any tenant's use of the Property. Before Purchaser (or any of its agents, employees, contractors or representatives) may enter upon the Property, Purchaser shall give twenty-four (24) hours advance notice to Seller. Seller may accompany, or have an employee of Seller's property manager accompany, Purchaser and its agents, employees, contractors and representatives while they are on the Property. Purchaser is a municipal entity subject to the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. Section 29-20-101 *et seq.* and is self-insured. Purchaser shall provide Seller with a letter confirming the amount of its self-insured liability retention prior to Purchaser or any of its agents, employees, contractors or representatives entering on the Property. Purchaser shall require any agent, contractor or representative of Purchaser entering upon the Property to maintain commercial general liability insurance, with a combined single limit for personal injury, death, and property damage of not less than One Million Dollars (\$1,000,000.00) per occurrence and naming Seller as an additional insured, and Purchaser shall provide to Seller a certificate or other evidence of such insurance. If Closing does not occur, Purchaser, at Seller's request, shall promptly repair all damage to the Property resulting from Purchaser's exercise of its rights under this section or caused by Purchaser (or any of its agents, employees, contractors or representatives). In addition, to the extent permitted by law, Purchaser shall indemnify, defend and hold harmless Seller from and against all claims, demands, actions, lawsuits, liabilities, damages, costs and expenses (including, but not limited to, court costs, litigation expenses and reasonable attorneys' fees) arising as a result of any acts, negligence or misconduct of Purchaser or any of its agents, employees, contractors or representatives ("Purchaser's Representatives") occurring on or about the

Property prior to the Closing or any inspections or other activities conducted by or on behalf of Purchaser pursuant to this section, except to the extent the same are directly due to the negligence or willful misconduct of Seller or any of its agents, employees, contractors or representatives. Purchaser's obligations under this Section 3.03 shall survive the termination of this Agreement or the Closing, as applicable.

3.04 Submission Items. Within ten (10) days after the Effective Date, Seller shall deliver to Purchaser the Submission Items. Purchaser acknowledges and agrees that Seller has not made and is not making any representations or warranties regarding the Submission Items, Purchaser shall have no right to rely on the Submission Items unless Purchaser obtains from the applicable issuer, a reliance letter or similar confirmation of its right to rely on such Submission Items, and Purchaser utilizes the Submission Items at its own risk.

3.05 Due Diligence Materials. If this Agreement is terminated for any reason other than a default by Seller, (i) Purchaser shall furnish Seller with a copy of all title insurance commitments, surveys, physical condition assessments, zoning analysis and environmental assessments related to the Property obtained by Purchaser, and (ii) Purchaser shall return all of the Submission Items to Seller. The provisions of this Section 3.05 shall survive the termination of this Agreement.

3.06 Termination. If Purchaser fails to deliver a written notice of its intent to proceed with its purchase of the Property in accordance with the terms of this Agreement, subject to satisfaction of the Purchaser Closing Conditions, to Seller on or before the last day of the Inspection Period, then Purchaser will be deemed to have terminated this Agreement.

#### ARTICLE IV LIENS: PERSONAL PROPERTY

4.01 Monetary Liens. Seller shall cause all Monetary Liens to be released by the Closing excluding the lien for Property Taxes for the Current Tax Period and subsequent years which are not yet due and payable.

4.02 Personal Property. Seller shall have the right (but not the obligation) to remove, or permit the removal of, any trade fixtures, equipment, furnishings and other personal property located at the Real Property (the "Personal Property") prior to the Closing. In the event any portion of the Personal Property remains on the Property after the Closing, Purchaser may utilize or dispose, at Purchaser's expense, of such Personal Property as it sees fit and Seller shall have no responsibility or liability in connection therewith.

#### ARTICLE V REPRESENTATIONS & WARRANTIES

5.01 Seller Representations and Warranties. Subject to the other terms hereof, Seller represents and warrants to Purchaser that as of the Effective Date and as of the Closing:

(a) (i) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Tennessee, (ii) Seller has all power and authority necessary for it to execute and deliver this Agreement and perform its obligations hereunder, and (iii) the execution, delivery and performance of this Agreement by Seller does not conflict with or constitute a breach of any contract, agreement or other instrument by which Seller or the Property is bound;

(b) Seller has not received actual notice of any material, uncured default (nor, to Seller's Actual knowledge, is there any default) under any outstanding note or deed of trust related to or secured by the

Property; the execution and delivery of this Agreement by Seller and Seller's performance of its obligations under this Agreement does not conflict with or result in a breach of any order, judgment, writ, injunction or decree of any court, arbiter or governmental instrumentality in any action to which Seller is a party;

(c) Seller has not (i) filed any voluntary petition in bankruptcy or sought to reorganize its affairs under the Bankruptcy Code of the United States or any other federal, state or local law related to bankruptcy, insolvency or relief for debtors, (ii) been adjudicated as bankrupt or insolvent, or (iii) had an involuntary petition filed against it under the Bankruptcy Code of the United States or any other federal, state or local law related to bankruptcy, insolvency or relief for debtors;

(d) Seller is not a person or entity with whom U.S. persons are restricted from doing business under the regulations of the Office of Foreign Assets Control ("OFAC") of the Department of Treasury (e.g. OFAC's Specially Designated and Blocked Persons list), Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 ("Executive Order 13224"), or the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56 ("USA Patriot Act");

(e) Seller is not a party to any litigation which is still pending, and to Seller's Actual Knowledge, no litigation is currently threatened against Seller, which litigation in either instance affects the Property;

Subject to the limitations set forth in Section 10.03, Seller hereby indemnifies and holds harmless Purchaser from and against any and all loss, expense (including without limitation reasonable attorney fees), liability, cost, claim, demand, action, cause of action and suit arising out of or in any way related to any breach of any representation, warranty, covenant or agreement of Seller in this Agreement.

**5.02 Purchaser Representations and Warranties.** Purchaser represents and warrants to Seller as of the Effective Date and as of the Closing:

(a) (i) Purchaser is a municipal corporation, duly organized, validly existing and in good standing under the laws of the State of Tennessee, (ii) Purchaser has all power and authority necessary for it to execute and deliver this Agreement and perform its obligations hereunder, and (iii) the execution, delivery and performance of this Agreement by Purchaser does not conflict with or constitute a breach of any contract, agreement or other instrument by which Purchaser is bound;

(b) (i) the execution and delivery of this Agreement by Purchaser and Purchaser's performance of its obligations under this Agreement does not conflict with or result in a breach of any order, judgment, writ, injunction or decree of any court, arbiter or governmental instrumentality in any action to which Purchaser is a party as of the Effective Date, and (ii) this Agreement and any documents executed by Purchaser pursuant to this Agreement are binding and enforceable against Purchaser;

(c) Purchaser is not a party to any pending lawsuits or governmental proceedings that could have a material adverse effect on Purchaser's ability to perform its obligations under this Agreement;

(d) Purchaser has not (i) filed any voluntary petition in bankruptcy or sought to reorganize its affairs under the Bankruptcy Code of the United States or any other federal, state or local law related to bankruptcy, insolvency or relief for debtors, (ii) been adjudicated as bankrupt or insolvent, or (C) had an involuntary petition filed against it under the Bankruptcy Code of the United States or any other federal, state or local law related to bankruptcy, insolvency or relief for debtors;

(e) Purchaser's source of funds for the acquisition of the Property will not involve any amounts that violate or would be subject to seizure under 18 U.S.C. §§1956-1957 (Laundering of Money Instruments), 18 U.S.C. §§ 981-986 (Federal Asset Forfeiture), 21 U.S.C. § 881 (Drug Property Seizure), Executive Order 13224, or the USA Patriot Act; and

(f) (i) neither Purchaser nor any of its Affiliates nor any person or entity owning an interest in either of them is a person or entity with whom U.S. persons are restricted from doing business under legal requirements, including, without limitation, the regulations of the OFAC of the Department of Treasury (e.g. OFAC's Specially Designated and Blocked Persons list), Executive Order 13224 or the USA Patriot Act, and (ii) prior to the Closing, Purchaser will submit all information reasonably requested by Seller in order for Seller to confirm the foregoing.

5.03 Survival. The representations and warranties of the parties in ARTICLE V shall survive the Closing or termination of this Agreement for a period of one (1) year.

#### ARTICLE VI DISCLOSURES & DISCLAIMERS

6.01 "As Is-Where Is" Sale. EXCEPT FOR THE REPRESENTATIONS, WARRANTIES, GUARANTEES AND ASSURANCES EXPRESSLY SET FORTH IN THE TRANSACTION DOCUMENTS, PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, IS NOT MAKING AND SPECIFICALLY DISCLAIMS AND NEGATES ANY WARRANTIES, REPRESENTATIONS, GUARANTEES OR ASSURANCES (EXPRESS OR IMPLIED) REGARDING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES, REPRESENTATIONS, GUARANTEES AND ASSURANCES REGARDING (I) THE EXISTENCE OF ANY HAZARDOUS SUBSTANCES ON, UNDER OR ABOUT THE PROPERTY, (II) THE ENVIRONMENTAL CONDITION OF THE PROPERTY, (III) THE QUALITY, NATURE, ADEQUACY OR PHYSICAL CONDITION OF THE PROPERTY, (IV) THE QUALITY, NATURE, ADEQUACY OR CONDITION OF THE SOILS AND GROUNDWATER AT THE PROPERTY, (V) THE EXISTENCE, QUALITY, NATURE, ADEQUACY OR CONDITION OF ANY UTILITIES AT OR NEAR THE PROPERTY, (VI) THE CURRENT OR FUTURE INCOME OR EXPENSES OF THE PROPERTY, (VII) THE VALUE, PROFITABILITY, HABITABILITY, SUITABILITY, MERCHANTABILITY, MARKETABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (VIII) THE ZONING OR OTHER LEGAL STATUS OF THE PROPERTY, (IX) THE EXISTENCE OF ANY PENDING OR THREATENED TAKING OF ALL OR A PORTION OF THE PROPERTY BY CONDEMNATION OR EMINENT DOMAIN, (X) THE PROPERTY'S COMPLIANCE WITH ANY LEGAL REQUIREMENTS OR ANY COVENANT, CONDITION, RESTRICTION OR OTHER ENCUMBRANCE, OR (XI) THE CONDITION OF TITLE TO THE PROPERTY OR THE NATURE, STATUS OR EXTENT OF ANY EASEMENT, RIGHT OF WAY, ENCUMBRANCE, LICENSE, RESERVATION OR OTHER MATTER AFFECTING TITLE TO THE PROPERTY. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT IT IS PURCHASING THE PROPERTY "AS-IS, WHERE-IS" WITH ALL FAULTS AND ALL LATENT OR PATENT DEFECTS.

EXCEPT FOR CLAIMS BASED ON SELLER'S BREACH OF THE TRANSACTION DOCUMENTS, AS OF THE CLOSING, PURCHASER, ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS, SHALL BE DEEMED TO HAVE WAIVED, RELEASED AND DISCHARGED SELLER FROM ALL CLAIMS THAT PURCHASER OR ITS SUCCESSORS OR ASSIGNS HAS OR MAY HAVE AGAINST SELLER RELATING TO THE PROPERTY, WHETHER KNOWN OR UNKNOWN, EXISTING OR ARISING IN THE FUTURE, INCLUDING, NOT LIMITED TO, CLAIMS ARISING OR RESULTING FROM (I) STATEMENTS OR OPINIONS MADE BY SELLER



OR ANY OF ITS AGENTS, EMPLOYEES, PROPERTY MANAGERS, CONTRACTORS OR REPRESENTATIVES, OR (II) THE PHYSICAL OR FINANCIAL CONDITION OF THE PROPERTY, OR (III) THE EXISTENCE OF ANY HAZARDOUS SUBSTANCES ON, UNDER OR ABOUT THE PROPERTY OR THE ENVIRONMENTAL CONDITION OF THE PROPERTY. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT PURCHASER, ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS, IS WAIVING, RELEASING AND DISCHARGING ALL CLAIMS FOR CONTRIBUTION OR INDEMNITY THAT PURCHASER OR ITS SUCCESSORS AND ASSIGNS HAS OR MAY HAVE AGAINST SELLER, WHETHER KNOWN OR UNKNOWN, EXISTING OR ARISING IN THE FUTURE, BASED, IN WHOLE OR IN PART, UPON THE PRESENCE ON OR DISCHARGE FROM THE PROPERTY OF HAZARDOUS SUBSTANCES OR OTHER ENVIRONMENTAL CONTAMINATION, INCLUDING, WITHOUT LIMITATION, CLAIMS THAT MAY ARISE UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED 42 U.S.C. § 9601 ET SEQ.

6.02 Survival. The provisions of this ARTICLE VI shall survive the Closing and delivery of the Deed.

## ARTICLE VII CLOSING

7.01 Closing. Subject to the other terms of this Agreement, the Closing shall take place at 10:00 a.m. Eastern Time on the Required Closing Date. The Closing shall be held through the offices of the Escrow Agent or at such other place as may be agreed upon by Purchaser and Seller, in writing.

### 7.02 Closing Deliveries.

(a) Deed. At the Closing, Seller shall convey all of Seller's right, title and interest in the Real Property to Purchaser, by duly executed and recordable special warranty deed in the form attached hereto as Schedule 7.02-A (the "Deed"), subject to the Permitted Exceptions.

(b) Assignment of Intangibles. At the Closing, Seller shall convey all of Seller's right, title and interest in the Intangibles to Purchaser, by a duly executed assignment of intangible property in the form attached hereto as Schedule 7.02-B, provided, however, that if the assignment of any item of intangible property requires the consent of any third party not affiliated with Seller or any payment in consideration of obtaining such consent, Seller shall not be required to assign such item of intangible property unless Purchaser obtains such consent, as to which Seller shall cooperate in obtaining, and/or Purchaser pays such consideration.

(c) Owner's Affidavit. At the Closing, Seller shall execute and deliver to Purchaser and the Escrow Agent an owner's affidavit in such form as is required by the Escrow Agent and is reasonably acceptable to Seller.

(d) Evidence of Authority. At the Closing, Seller shall deliver evidence in form and substance reasonably satisfactory to Escrow Agent that Seller has the power and authority to execute and perform its obligations under this Agreement.

(e) 1445 Certificate. At the Closing, Seller shall execute and deliver to Purchaser a properly completed certificate conforming to the requirements of Treasury Regulations 1.1445-2(b)(2).

(f) Closing Statement. At the Closing, Seller and Purchaser shall execute a written statement for the Property that sets forth the Purchase Price, any credits against the Purchase Price provided for

in this Agreement, all amounts prorated between the parties pursuant to this Agreement, and all disbursements to be made at the Closing on behalf of Seller or Purchaser.

**7.03 Conditions to Closing.**

(a) **Purchaser Closing Conditions.** Purchaser's obligation to consummate the transaction contemplated by this Agreement is contingent upon all of the following conditions (the "**Purchaser Closing Conditions**") being satisfied as of the date and time the Closing is scheduled to take place under Section 7.01:

(i) Each of the terms, covenants and conditions of this Agreement to be complied with or performed by Seller on or before the Closing Date pursuant to the terms hereof shall have been duly complied with and performed in all material respects, and each of the representations and warranties made by Seller in this Agreement shall be true, accurate and complete in all material respects as of the Closing Date; and

(ii) Seller executing and delivering all of the documents required under Section 7.02; and

(iii) An enforceable commitment to issue the Owner's Title Policy shall have been delivered to Purchaser and shall only include Permitted Exceptions.

If any one of the Purchaser Closing Conditions is not satisfied as of the date and time the Closing is scheduled to occur, then Purchaser may: (i) terminate this Agreement by written notice to Seller; or (ii) waive such Purchaser Closing Conditions and proceed with the Closing. Nothing in this Section 7.03(a) shall limit the remedies available to Purchaser as a result of Seller's default under this Agreement.

(b) **Seller Closing Conditions.** Seller's obligation to consummate the transaction contemplated by this Agreement is contingent upon all of the following conditions (the "**Seller Closing Conditions**") being satisfied as of the date and time the Closing is scheduled to take place under Section 7.01:

(i) Each of the terms, covenants and conditions of this Agreement to be complied with or performed by Purchaser on or before the Closing Date pursuant to the terms hereof shall have been duly complied with and performed in all material respects, and each of the representations and warranties made by Purchaser in this Agreement shall be true, accurate and complete in all material respects as of the Closing Date; and

(ii) Seller's receipt of the Purchase Price from Purchaser, subject to the prorations, credits and adjustments expressly provided for in this Agreement;

(iii) Purchaser executing and delivering all of the documents required under Section 7.02;

(iv) Purchaser shall have delegated to The Industrial Development Board of the City of Knoxville, Tennessee (the "**IDB**") the authority to negotiate and execute two (2) PILOT Leases (the "**PILOT Leases**") relating to payments in lieu of taxes with respect to two (2) parcels to be selected and subdivided by Seller from the property presently owned by Seller located on Middlebrook Pike in Knoxville, Tennessee, which property is generally shown on Schedule 7.03(b)(iv)-A attached hereto (the "**Middlebrook Property**"). The parties acknowledge that the parcels have not been subdivided, and prior to the execution of each PILOT Lease, Seller shall cause the subdivision of such parcels from the Middlebrook Property. The Purchaser agrees to assist and cooperate, at no expense to it, with the efforts of Seller to subdivide the

Middlebrook Property. Seller shall retain the right in each PILOT Lease, during the Construction Period (as defined below) to make such changes to the boundaries of such parcels as may be deemed necessary to facilitate the development of the parcels as described herein and in the terms of the PILOT Leases to be approved by the Purchaser. Seller has informed the Purchaser that Seller intends to cause the construction of health care facilities on such parcels, some of which will provide for services presently provided on the Property, and Seller will agree in each PILOT Lease to cause the construction of health care facilities on the applicable parcel within three (3) years after the execution of the PILOT Agreement. Each PILOT Lease shall provide that Seller shall make payments in lieu of taxes for the term of the PILOT Lease with respect to the property that is the subject of the PILOT Lease in any tax year of an amount equal to the taxes presently being paid to the Purchaser and Knox County, Tennessee (the "County") for tax year 2018 based upon an amount of the 2018 taxes to be agreed upon by the parties as is reasonably allocable to the parcels subject to the PILOT Lease as if such parcel had been separately subdivided in 2018. The term of each PILOT Lease shall not exceed 15 years plus a reasonable construction period (the "Construction Period") of the lesser of three (3) years or the actual period of construction, provided, however, at the election of Seller by notice to Purchaser and the IDB, the term of the PILOT Lease for one parcel of the Middlebrook Property may have an extended term of up to an additional two (2) years with Seller making a payment in lieu of taxes during such additional period, which additional period shall occur at the beginning of the term of the such PILOT Lease before any construction commences, in an amount equal to the real property taxes that would otherwise be payable with respect to the property subject to such PILOT Lease if owned by a private party. Seller shall agree in each PILOT Lease that no portion of the property that is the subject of the PILOT Lease shall be used for retail purposes without first receiving the proper consent of the Purchaser. Under the PILOT Leases, the aggregate amount that Seller shall be entitled to receive as an effective reduction in ad valorem real property taxes with respect to all property subject to the PILOT Leases shall be \$16,000,000, to be allocated between the PILOT Leases by Seller as reasonably acceptable to the Purchaser. If Seller has received the maximum aggregate benefit of such an effective reduction in real property taxes under the PILOT Leases prior to the expiration thereof, Seller shall thereafter make payments in lieu of taxes to the Purchaser and the County in amounts equal to the real property taxes that otherwise would have been payable with respect to the property that is the subject of the PILOT Agreement. The parties acknowledge that the plans and costs for the development and construction of improvements upon each parcel will likely not be completed at the time of execution of each PILOT Lease, and in such event, the applicable PILOT Lease shall provide for amendment thereof to effectuate the terms of this Agreement and to comply, to the extent necessary, with applicable laws. Seller shall be permitted to assign each PILOT Lease in whole or in part to affiliates of Seller, a turn-key developer or any other entities that have an interest in the property that is the subject of the PILOT Lease (the "Assignees") so that such parties may receive the benefit of the PILOT Lease provided that if the assignment is to an unrelated party, Seller shall demonstrate to the satisfaction of the Purchaser that Seller will initially have an active involvement in the operation of the property either through a lease, a management contract, ownership interest or other comparable arrangement. The form of the PILOT Leases is attached hereto as Schedule 7.03(b)(iv)-B, and the approval and authorization of each PILOT Lease by the IDB and execution of each PILOT Lease, in such form with such revisions as are acceptable to Seller and the Purchaser (as determined by the Mayor or Deputy Mayor of the City of Knoxville), shall be a Seller Closing Condition, and the failure of the IDB to authorize, execute or deliver any PILOT Lease shall not be a default by Purchaser.

If any one of the Seller Closing Conditions is not satisfied as of the date and time the Closing is scheduled to occur, then Seller may: (i) terminate this Agreement by written notice to Purchaser; (ii) waive such Seller Closing Conditions and proceed with the Closing, or (iii) extend the Required Closing Date until the Seller Closing Conditions are satisfied but in no event for a period longer than ninety (90) days. Nothing in this Section 7.03(b) in this shall limit the remedies available to Seller as a result of Purchaser's default under this Agreement.

**7.04     Closing Costs.**

(a)     **Seller Closing Costs.** At the Closing, Seller shall pay fifty percent (50%) of the fees charged by the Escrow Agent to coordinate the Closing.

(b)     **Purchaser Closing Costs.** At the Closing, Purchaser shall pay: (i) fifty percent (50%) of any fees charged by the Escrow Agent to coordinate the Closing; (ii) all transfer taxes, documentary stamps, intangible taxes, surtaxes, recording charges and other similar fees due in connection with the transfer of the Property to Purchaser and the recording of the documents described in Section 7.02; and (iii) the premium for the Owner's Title Policy and the cost of any extended coverage or other endorsements requested by Purchaser and to the extent not previously reimbursed to Seller as provided in Section 3.02.

(c)     **Other Costs.** Except as otherwise expressly provided herein, Seller and Purchaser shall each be responsible for paying the attorneys' fees that it incurs in connection with the transaction contemplated by this Agreement. In addition, Purchaser shall pay, prior to delinquency, all expenses incurred by Purchaser in connection with its due diligence with respect to the Property (including, but not limited to, the cost of physical inspections, surveys, environmental assessments, zoning and permits reviews), and any financing obtained by Purchaser in connection with its acquisition of the Property.

**ARTICLE VIII  
PRORATIONS**

**8.01     Calculation.** All prorations to be made under this section "as of the Closing Date" shall be made as of 11:59 P.M. local time on the day immediately preceding the Closing Date, with the effect that Seller shall pay the portions of the expenses and receive the portions of the income to be prorated under this Agreement which are allocable to periods prior to the Closing Date and Purchaser shall pay the portions of such expenses and receive the portions of such income which are allocable to periods from and after the Closing Date.

**8.02     Property Taxes.**

(a)     **Current Tax Period.** Seller and Purchaser acknowledge that the Property will be exempt from Property Taxes after the Closing. The Property Taxes for the Current Tax Period shall be prorated between Seller and Purchaser as of the Closing Date and the Seller shall pay its portion of such Property Taxes at the Closing. If the Property Taxes for the Current Tax Period are not yet due and payable on the Closing Date, then Seller shall pay to Purchaser at Closing an amount equal to its estimated portion of such Property Taxes as of the Closing Date and such amount shall be subject to adjustment pursuant to Section 8.04 hereof.

(b)     **Contest of Prior Periods.** Seller shall have the right to all refunds or rebates resulting from contests or appeals of any Property Taxes with respect to the years prior to the Current Tax Period. Seller may, at its option, contest or appeal any portion of the Property Taxes for the Current Tax Period, and the parties agree to prorate all refunds or rebates received on account thereof, based upon each parties' period of ownership of such Property during the Current Tax Period. Purchaser agrees to cooperate and assist with any contest or appeal by Seller of the Property Taxes, so long as Purchaser is not required to incur any costs or expenses in connection therewith.

**8.03     Utilities.** Seller shall pay, when due, all charges for utilities furnished to the Property prior to the Closing under any account maintained in Seller's name, and Seller shall be entitled to retain any utility

deposits made by Seller which are refundable. Purchaser shall be responsible for making arrangements for the continuation of such utilities to the Property from and after the Closing Date.

8.04 Unknown Amounts. In the event any amount to be prorated between the parties or credited to either of the parties under the terms of this ARTICLE VIII is not known with certainty as of the Closing, the parties shall use an estimate of such amount at the Closing. If more current information is not available, such estimates shall be based upon the prior operating history of the Property and the most recent prior bills. As such estimated amounts become finally known, Seller and Purchaser shall make any payments necessary to cause Seller and Purchaser to pay the amounts it is responsible for under this ARTICLE VIII, but no more. Seller and Purchaser agree to cooperate and use reasonable efforts to finalize the prorations or adjustments required under this ARTICLE VIII that cannot be completed as of the Closing no later than the later of: (i) ninety (90) days after the Closing, if possible or (ii) December 31 of the calendar year of the Closing Date.

8.05 Survival. The provisions of this ARTICLE VIII shall survive the Closing.

#### ARTICLE IX DAMAGE AND CONDEMNATION

9.01 Casualty.

(a) Until the Closing, Seller agrees to maintain its existing property insurance covering the Property (the "**Property Insurance**"). If the Property is materially damaged by fire or other casualty prior to the Closing, Purchaser may either terminate this Agreement (and the parties shall have no further obligations hereunder except as is specifically provided herein) or Purchaser may proceed with the Closing. If Purchaser elects to proceed with the Closing, Seller shall pay Purchaser an amount equal to insurance proceeds, if any, received by Seller on account of such damage under the Property Insurance, assign to Purchaser all insurance proceeds payable (but not yet paid) to Seller as a result of such casualty loss under the Property Insurance, and provide to Purchaser at Closing an amount equal to the deductible (if any) under the Property Insurance.

Seller shall be entitled to retain all proceeds paid as a result of any damage to the Property under Seller's rental loss insurance and business interruption insurance. Seller shall bear the risk of loss or damage to the Property until the Closing.

9.02 Condemnation. If there is an actual or pending taking of the Property by condemnation or eminent domain prior to the Closing (a "**Taking**") then, at the Closing, Seller shall pay Purchaser any condemnation awards received by Seller on account of such Taking except condemnation awards payable to the tenants under any existing leases, and Seller shall assign all of its interest in any unpaid condemnation awards due as a result of such Taking to Purchaser. Seller shall not reach any settlement or agreement related to any Taking after the Effective Date, unless Purchaser consents thereto, in writing, which consent shall not be unreasonably withheld, qualified or delayed.

#### ARTICLE X DEFAULT

10.01 Failure to Sell. If Seller breaches this Agreement by failing to sell the Property to Purchaser and Seller does not cure such breach within five (5) days after it is notified of the same by Purchaser, in writing, then Purchaser may, as its sole and exclusive remedy, either: (i) obtain specific performance of this Agreement; or (ii) terminate this Agreement and recover an amount equal to the out-of-pocket expenses incurred by Purchaser in connection with its inspection of the Property, not to exceed One Hundred Thousand and No/100 Dollars (\$100,000.00). In the event Purchaser desires to bring an action for specific performance

of this Agreement, Purchaser must commence such action within one-hundred and twenty (120) days after the date the Closing was supposed to occur. Purchaser's failure to commence an action for specific performance within the period required under this section shall constitute an irrevocable waiver of its right to bring the same.

10.02 Failure to Purchase. If Purchaser breaches this Agreement by failing to purchase the Property and Purchaser does not cure such breach within five (5) days after it is notified of the same by Seller, in writing, then Seller may, as its sole and exclusive remedy, terminate this Agreement and recover from Purchaser an amount equal to the out-of-pocket expenses incurred by Seller in connection with the negotiation, execution and performance of this Agreement by Seller, not to exceed One Hundred Thousand and No/100 Dollars (\$100,000.00) as liquidated damages. Purchaser and Seller agree that said liquidated damages are reasonable given the circumstances now existing, including, but not limited to, the range of harm to Seller that is reasonably foreseeable and the anticipation that proof of Seller's actual damages would be costly, impractical and inconvenient.

10.03 Other Defaults. Except as otherwise provided in Sections 10.01 and 10.02, if Seller or Purchaser breaches any of the terms of this Agreement and does not cure such breach within thirty (30) days after it is notified of the same by the non-breaching party, in writing, then the non-breaching party shall have the right to obtain any remedy available at law or in equity, including, but not limited to, the right to recover the damages that it suffers or incurs on account of the breach. Notwithstanding anything to the contrary, in no event shall either party be liable for consequential, incidental, exemplary or punitive damages as a result of its breach of this Agreement, and in no event shall the damages payable by either party under this Agreement pursuant to this Section exceed One Hundred Thousand and No/100 Dollars (\$100,000.00). The remedies expressly set forth in Section 10.01 and this Section 10.03 shall be the only remedies available to Purchaser as a result of Seller's default under or breach of any of the Transaction Documents.

## ARTICLE XI MISCELLANEOUS

11.01 Notices. All notices, consents, approvals, deliveries and other communications (collectively, "Notices") which may be or are required to be given by either Seller or Purchaser under this Agreement shall be properly given only if made in writing and sent by hand delivery, U.S. Certified Mail, Return Receipt Requested, or nationally recognized overnight delivery service (such as Federal Express or UPS), with all delivery charges paid by the sender and addressed to Purchaser or Seller, as applicable, as follows:

If to Seller: Metro Knoxville HMA, LLC  
c/o CHSPSC, LLC  
4000 Meridian Boulevard  
Franklin, Tennessee 37067  
Attn: President

with copy to: Metro Knoxville HMA, LLC  
c/o CHSPSC, LLC  
4000 Meridian Boulevard  
Franklin, Tennessee 37067  
Attn: General Counsel

with copy to: Metro Knoxville HMA, LLC  
c/o Tennova Healthcare  
Turkey Creek Medical Center  
10820 Parkside Drive  
Knoxville, Tennessee 37934  
Attn: George T. Benton, Market CEO

with copy to Gentry Tipton & McLemore, P.C.  
(which shall not Riverview Tower  
constitute notice): 900 S. Gay Street, Suite 2300  
  
Knoxville, Tennessee 37902  
Attn: Greg D. Meadows, Esq.

If to Purchaser: City of Knoxville, Tennessee  
400 Main Street, Suite 699  
P.O. Box 1631  
Knoxville, Tennessee 37901  
Attn: Director of Law

Either party may change its address for Notices by giving written notice to the other party in accordance with this provision. Notices shall be deemed received: (i) if delivered by hand, on the date of delivery; (ii) if sent by certified U.S. Mail, five (5) days after the same is deposited with such carrier; and (iii) if sent by overnight delivery service, on the date the same is received.

11.02 Brokers. Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker, brokerage firm, listing agent or finder in connection with the transaction contemplated by this Agreement.

11.03 Assignment & Successors. Purchaser shall not have the right to assign this Agreement, unless it obtains the prior written consent of Seller, which shall not be unreasonably withheld, conditioned or delayed if such assignment is to another public entity. In the event of any assignment of this Agreement, Purchaser shall remain primarily liable for all obligations of Purchaser hereunder. The terms of this Agreement shall be binding on Seller, Purchaser and their respective successors-in-interest.

11.04 Entire Agreement. This Agreement contains the final, complete and entire agreement of Seller and Purchaser with respect to the matters contained herein, and no prior agreement or understanding pertaining to such matters shall be effective for any purpose. This Agreement may only be amended by a written instrument signed by Purchaser and Seller.

11.05 No Offer. The submission of this Agreement by Seller shall not constitute an offer, and this Agreement shall become effective and binding only after it is executed and delivered by both Seller and Purchaser. Furthermore, copies of this Agreement that have not been executed and delivered by both Seller and Purchaser shall not serve as a memorandum or other writing evidencing an agreement between the parties.

11.06 Interpretation. FOR PURPOSES OF THIS AGREEMENT, TIME SHALL BE CONSIDERED OF THE ESSENCE. The titles, captions and section headings in this Agreement are for

convenience only and shall not define, limit or expand the scope of any provision hereof. Seller and Purchaser have agreed to the particular language of this Agreement, and any question regarding its meaning shall not be resolved by any rule providing for interpretation against the party who caused the uncertainty to exist or against the draftsman. In the event any words or phrases in this Agreement are stricken out or otherwise eliminated, whether or not any other words or phrases are added in their place, this Agreement shall be construed as though such words or phrases were never included herein and no inference shall be drawn therefrom. Unless the context indicates otherwise, (i) the terms "hereof", "hereunder" and "herein" refer to this Agreement as a whole, (ii) the singular includes the plural and the masculine gender includes the feminine and neuter, and (iii) all references to articles, sections and subsections refer to the articles, sections and subsections of this Agreement.

11.07 Counterparts. This Agreement may be executed in separate counterparts. It shall be fully executed when each party whose signature is required has signed at least one (1) counterpart even though no one (1) counterpart contains the signatures of all of the parties to this Agreement.

11.08 Delivery. Seller and Purchaser agree that executed copies of this Agreement may be delivered by facsimile or email (in PDF format), and the same shall have the same validity as if they were delivered in person.

11.09 Non-waiver. No waiver of any provision of this Agreement shall be deemed to have been made unless it is expressed in writing and signed by the party charged with making the waiver. No delay or omission in the exercise of any right or remedy accruing upon a breach of this Agreement shall impair such right or remedy or be construed as a waiver of such breach. The waiver of any breach of this Agreement shall not be deemed to be a waiver of any other breach hereof.

11.10 Severability. This Agreement is intended to be performed in accordance with and only to the extent permitted by applicable law. If any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

11.11 Schedules/Exhibits. Purchaser and Seller acknowledge and agree that all schedules and exhibits referenced in this Agreement are attached hereto and incorporated herein by reference.

11.12 Attorneys' Fees. The prevailing party in any legal proceeding related to this Agreement shall be entitled to recover the reasonable court costs, litigation expenses and attorneys' fees that it incurs in connection with such legal proceeding from the non-prevailing party therein.

11.13 Business Days. If any date specified in this Agreement for the performance of an obligation, the delivery of an item, the giving of a notice or the expiration of a time period falls on a day other than a Business Day, then this Agreement shall be automatically revised so that such date falls on the next occurring Business Day.

11.14 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Tennessee, without regard any conflict of law principles that might dictate that the laws of another jurisdiction should be applied.

11.15 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, SELLER AND PURCHASER HEREBY EXPRESSLY WAIVE THEIR RIGHT TO A TRIAL BY JURY OF ANY CLAIM (I) ARISING UNDER THE TRANSACTION DOCUMENTS, OR (II) CONNECTED WITH OR RELATED TO THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, WHETHER NOW EXISTING OR



HEREAFTER ARISING. SELLER OR PURCHASER MAY FILE AN ORIGINAL OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE FOREGOING WAIVER.

11.16 Venue. PROPER VENUE FOR ANY ACTION ARISING UNDER OR RELATING TO ANY OF THE TRANSACTION DOCUMENTS OR THE TRANSACTION CONTEMPLATED THEREIN SHALL BE IN THE STATE AND FEDERAL COURTS HAVING JURISDICTION OVER KNOX COUNTY, TENNESSEE. ALL PARTIES HERETO CONSENT TO SUCH COURTS HAVING PERSONAL JURISDICTION AND WAIVE WHATEVER RIGHTS THEY HAVE TO BE SUED ELSEWHERE.

11.17 Period for Actions. To the maximum extent permitted under Legal Requirements, all claims and causes of action arising under any of the Transaction Documents or in connection with the transaction contemplated herein shall be brought prior to the earlier of the expiration of the applicable statute of limitations or two (2) years after the Closing Date; except claims and causes of action based on a breach of any of the representations and warranties set forth in ARTICLE V, which must be commenced within the period provided therein and an action for specific performance under Section 10.01, which must be commenced within the time period provided therein.

11.18 Restrictions. Purchaser acknowledges and agrees that prior to or at Closing, Seller shall place restrictions (the "Restrictions") on the Property that prohibit all or any portion of the Property from being used for the purposes of a full-service, acute care hospital (the "Prohibited Use"). The Restrictions shall remain in effect and enforceable until the earlier of: (a) the date Seller or any of its affiliates cease to own, lease, operate or occupy a full service, acute care hospital in Knoxville, Tennessee (the "Hospital") for a period of twelve (12) consecutive months, or (b) five (5) years after the Closing.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement as of the date appearing below their signatures on this page.

SELLER:

METRO KNOXVILLE HMA, LLC,  
a Tennessee limited liability company


By: 

Name: Tim Hingtgen

Title: President

Date: 5-14-19

APPROVED AS TO FORM:

  
CHARLES W. SWANSON  
LAW DIRECTOR

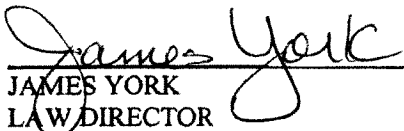
PURCHASER:

CITY OF KNOXVILLE

By: 

MADELINE ROGERO  
MAYOR

FUNDS CERTIFIED:

  
JAMES YORK  
LAW DIRECTOR

Date: 5/31/19

SCHEDULE 1.01(xxv)

DEPICTION OF REAL PROPERTY



## **DESCRIPTION OF REAL PROPERTY**

**To be inserted from the Survey described in Section 3.02 upon delivery of such Survey**

**SCHEDULE 1.01(xxix)**

**SUBMISSION ITEMS**

1. Any existing surveys of the Real Property.
2. Any existing environmental and physical inspection reports, studies and/or evaluations relating to the Real Property.
3. Any existing construction or manufacturer warranties related to the Real Property.
4. Any existing title policies for the Real Property.
5. Pleadings and related documents relating to any pending litigation, condemnation or other similar proceedings affecting the Property to which Seller is a party.
6. Any existing leases, easements or licenses entered into in connection with the Real Property with third parties.
7. Copies of original plans and specifications, including architectural, mechanical, electrical, plumbing, drainage, utility, construction and any similar plans, drawings, specifications and/or blueprints relating to the improvements located on the Property.
8. Any written notice of any material uncured violations or written warning of material uncured violations of any ordinances, restrictions, codes, regulations or any other governmental requirement including, but not limited to citations, notices or warnings issued by any governmental entity having competent jurisdiction thereof other than the City and received by Seller within the preceding two (2) years.

SCHEDULE 7.02-A

DEED

**SPECIAL WARRANTY DEED**

THIS INSTRUMENT PREPARED BY:

Greg D. Meadows, Esq.  
900 South Gay Street  
Suite 2300  
Knoxville, Tennessee 37902

\* OWNER/RESPONSIBLE TAXPAYER:

\* \_\_\_\_\_  
\* \_\_\_\_\_  
\* \_\_\_\_\_  
\* \_\_\_\_\_

\* Source of Grantor's Title:  
\* Deeds recorded as Instrument Nos.:  
\_\_\_\_\_

\* Tax Parcel: \_\_\_\_\_

I, or we, hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$\_\_\_\_\_.00, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

THIS INDENTURE, made as of the \_\_\_\_ day of \_\_\_\_\_, 2019, between METRO KNOXVILLE HMA, LLC, a Tennessee limited liability company ("Grantor") and CITY OF KNOXVILLE, TENNESSEE, a municipal corporation organized and existing under the laws of the State of Tennessee ("Grantee").

**WITNESSETH:**

That Grantor, for and in consideration of the sum of Ten and no/100 Dollars (\$10.00) and for other good and valuable consideration in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and does hereby grant, bargain, sell and convey unto Grantee the following described premises, with the hereditaments and appurtenances thereto appertaining, to-wit:

**[PROPERTY DESCRIPTION and DERIVATION]**

TO HAVE AND TO HOLD the Property to the said Grantee, its successors and assigns forever.

And Grantor does covenant with the said Grantee that Grantor is lawfully seized and possessed of said land in fee simple; has a good right to convey it, and the same is free from all encumbrances made or suffered by Grantor, except as listed on Exhibit A and representations and limitations as expressly provided for hereby.

And Grantor, for itself, its successors and assigns, does hereby covenant with Grantee, its representatives, successors and assigns, that Grantor will forever warrant and defend the title to the Property against the lawful claims of all persons claiming by, through or under Grantor, but not further or otherwise; and that such Property is free from all encumbrances except for those matters described on Exhibit A attached hereto.

THE PREPARER OF THIS DEED MAKES NO REPRESENTATION AS TO THE STATUS OF TITLE TO THE PROPERTY DESCRIBED ON EXHIBIT A HERETO. THIS DEED HAS BEEN PREPARED SOLELY FROM INFORMATION FURNISHED TO THE PREPARER WHO MAKES NO REPRESENTATION WHATSOEVER OTHER THAN IT HAS BEEN ACCURATELY TRANSCRIBED FROM THE INFORMATION PROVIDED. The terms "Grantor" and "Grantee" and any pronouns shall be read in the singular and plural number and in such gender as the context may require.

IN WITNESS WHEREOF, the Grantor has executed this instrument the date first above written.

**METRO KNOXVILLE HMA, LLC,**  
a Tennessee limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

Before me, \_\_\_\_\_, of the State and County aforesaid, personally appeared Jason Price, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, swore to and acknowledged herself/himself to be \_\_\_\_\_ of Metro Knoxville HMA, LLC, the within-named bargainor, a Tennessee limited liability company, and that she/he as such \_\_\_\_\_, executed the foregoing instrument for the purpose therein contained, by signing the name of the company by herself/himself as \_\_\_\_\_.

WITNESS my hand and seal at office in \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT A  
PERMITTED EXCEPTIONS**

**[To be added based upon Title Insurance Commitment]**



SCHEDULE 7.02-B

ASSIGNMENT OF INTANGIBLE PROPERTY

THIS ASSIGNMENT OF INTANGIBLE PROPERTY (the "Assignment") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_ (the "Effective Date"), by \_\_\_\_\_, a \_\_\_\_\_ limited liability company ("Assignor"), for the benefit of \_\_\_\_\_, a \_\_\_\_\_ limited liability company ("Assignee").

WITNESSETH:

WHEREAS, Assignor and Assignee previously entered into that certain Purchase and Sale Agreement dated \_\_\_\_\_ (the "Sale Agreement"); and

WHEREAS, simultaneously with the execution of this Assignment, Assignor and Assignee are consummating the transaction contemplated by the Sale Agreement; and

WHEREAS, Assignor is are required to enter into this Assignment at the Closing under the terms of the Sale Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Defined Terms. For purposes of this Assignment, including, but not limited to, the foregoing recitals, all capitalized terms not defined herein shall have the meaning ascribed to them in the Sale Agreement.

2. Transfer. Assignor hereby assigns all of its right, title and interest in the Intangibles to Assignee. Except as otherwise expressly provided in the Sale Agreement, such Intangibles are being conveyed to Assignee "AS-IS, WHERE-IS", with all faults and without any representations, warranties, guaranties or assurances whatsoever, express or implied. Accordingly, the provisions of Section 6.01 of the Sale Agreement are incorporated into and shall be a part of this Assignment.

3. Governing Law. This Assignment shall be governed by the laws of the State of Tennessee.

4. Binding Effect. This Assignment shall be binding on Purchaser and its successors and assigns and shall inure to the benefit of Purchaser and its successors and assigns.

5. Exhibits. All exhibits referenced in this Assignment are incorporated herein by reference.

6. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Seller has caused this Assignment to be executed as of the day and year first above written.

ASSIGNOR:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ASSIGNEE:

\_\_\_\_\_

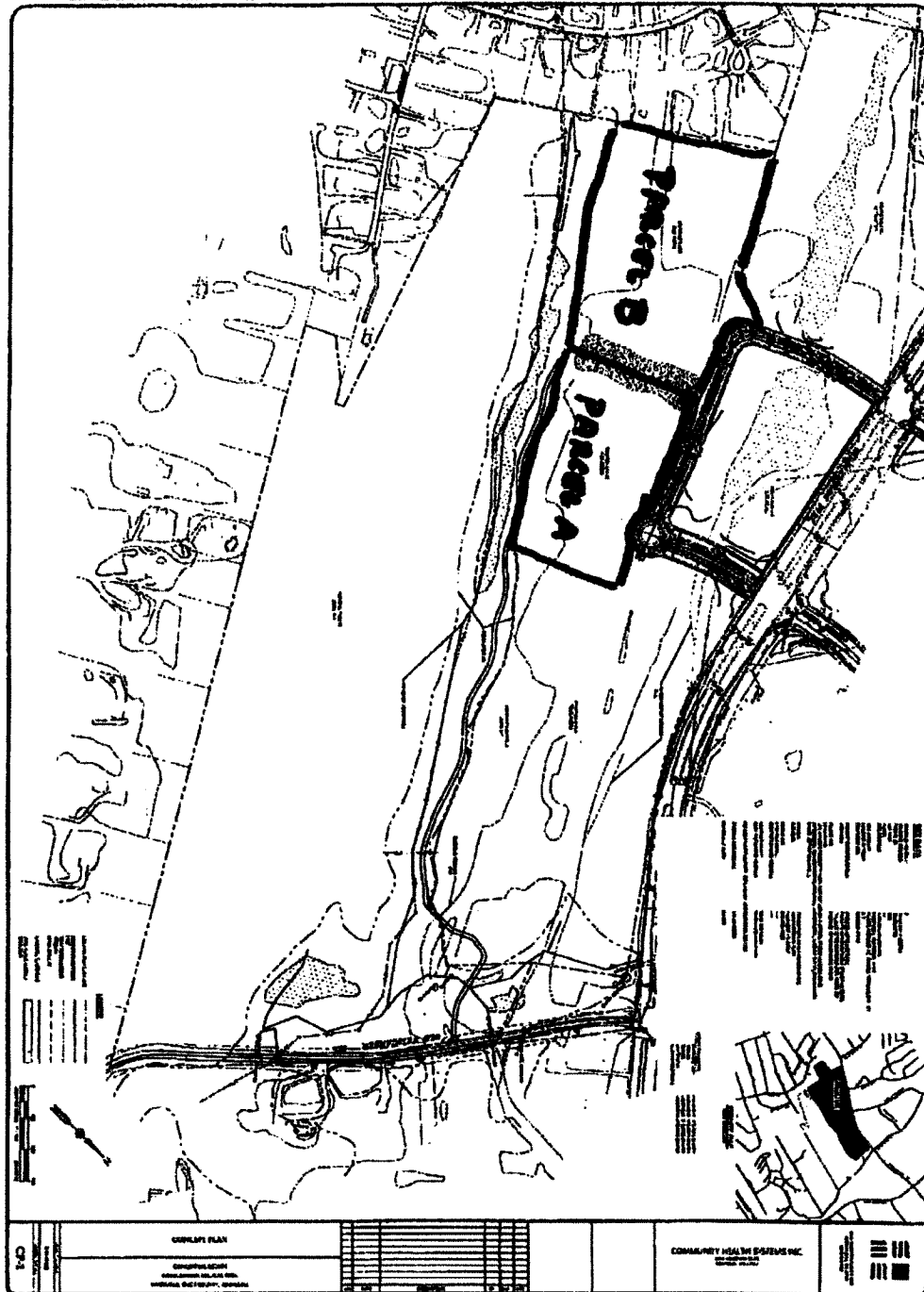
By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SCHEDULE 7.03(b)(iv)-A

MIDDLEBROOK PROPERTY



SCHEDULE 7.03(b)(iv)-B

PILOT LEASE FORM

26178504.9

LEASE  
FROM  
THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF KNOXVILLE  
(a Tennessee public nonprofit corporation)

TO

METRO KNOXVILLE HMA, LLC

\_\_\_\_\_  
DATED AS OF \_\_\_\_\_, 2019

This Instrument Prepared By:  
R. Culver Schmid  
Baker, Donelson, Bearman, Caldwell &  
Berkowitz, P.C.  
265 Brookview Centre Way  
Suite 600  
Knoxville, TN 37919

## LEASE

This Lease, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2019, by and between **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KNOXVILLE**, a public nonprofit corporation organized and existing under the laws of the State of Tennessee ("Lessor"), and **METRO KNOXVILLE HMA, LLC**, a Tennessee limited liability company ("Lessee").

### WITNESSETH:

WHEREAS, Lessor is a public nonprofit corporation and a public instrumentality of the City of Knoxville, Tennessee, and is authorized under Sections 7-53-101 to 7-53-311, inclusive, Tennessee Code Annotated, as amended (the "Act"), to acquire, whether by purchase, exchange, gift, lease, or otherwise, and to own, lease and dispose of properties for certain purposes identified in the Act;

WHEREAS, in order to encourage Lessee to redevelop the real property subdivided into a single parcel located at \_\_\_\_ Middlebrook Pike, Knoxville, Tennessee, bearing Tax Parcel No. \_\_\_\_\_, and construct health care facilities thereon, furthering the purposes of the Act (including but not limited to Section 7-53-305 of the Act), Lessor desires to lease to Lessee and Lessee desires to rent from Lessor certain real property hereinafter more particularly described, on the terms and conditions set forth herein;

WHEREAS, the City Council of the City of Knoxville, Tennessee, authorized the Lessor to negotiate and accept from Lessee payments in lieu of ad-valorem taxes pursuant to Resolution No. R-\_\_\_\_-\_\_\_\_ approved \_\_\_\_\_, 20\_\_\_\_ (the "City Council Resolution");

WHEREAS, the Board of Directors of The Industrial Development Board of the City of Knoxville authorized the Lessor to execute and deliver this Lease pursuant to that certain Resolution of the Board of Directors of the Industrial Development Board of the City of Knoxville dated \_\_\_\_\_, 20\_\_\_\_ (the "IDB Resolution"); and

WHEREAS, in addition to this Lease, the Lessor has also entered into a similar payment in lieu of tax lease with \_\_\_\_\_, an affiliate of Lessee, pursuant to a Lease dated \_\_\_\_\_;

NOW, THEREFORE, Lessor, for and in consideration of the payments hereinafter stipulated to be made by Lessee, and the covenants and agreements hereinafter contained to be kept and performed by Lessee, does by these presents demise, lease and let unto Lessee, and Lessee does by these presents hire, lease and rent from Lessor, for the Term (as defined below) and upon the conditions hereinafter stated, the premises described in **Exhibit A** attached hereto, together with all facilities and improvements now existing or hereafter constructed thereon by Lessee or otherwise;

UNDER AND SUBJECT, however, to deed restrictions, covenants, easements, reservations, rights of way and other encumbrances existing as of the date hereof and any other encumbrance hereafter existing that is not created by Lessor; and

UNDER AND SUBJECT to the following terms and conditions:

## ARTICLE I

### DEFINITIONS

**Section 1.01.** In addition to the words, terms and phrases elsewhere defined in this Lease, the following words, terms and phrases as used in this Lease shall have the following respective meanings:

"Act" shall mean Sections 7-53-101 to 7-53-311, inclusive of Tennessee Code Annotated, as amended.

"Affiliate" shall mean any entity that directly or indirectly owns or controls, or is controlled by or under common control with, Lessee or an entity in which Lessee has a direct equity interest. For the purpose of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

"Bankruptcy Code" means 11 U.S.C. § 101-1330 or any successor statute.

"Basic Rent" shall mean the amounts described in Section 4.01.

"City Council Resolution" shall have the meaning stated in the Recitals of this Lease.

"Construction Completion Date" shall mean the date that is the earlier of (a) the first day of the next month following issuance of a Certificate of Occupancy for the Project, or (ii) five (5) years after the Effective Date.

"Construction Period" shall mean the period of time during which the Improvements are constructed, such period to begin upon the execution of the Lease and end on the Construction Completion Date.

"Costs of the Project" shall mean fair market value of the Leased Land and the costs of construction of the Improvements which the Lessee estimates are not less than \$ \_\_\_\_\_ (as described in Article XI of this Lease).

"Effective Date" shall have the meaning provided in Article III herein.

"Event of Default" shall have the meaning provided in Article XIII herein.

"Health Care Facilities" shall mean health care and related containing approximately \_\_\_\_\_ square feet; provided, however, such facilities must at all times satisfy the definition of "Project" as defined in the Act.

"IDB Resolution" shall have the meaning stated in the Recitals of this Lease.

"Improvements" shall mean the health care facilities and related improvements to be constructed on the Leased Land; included but not limited to Health Care Facilities.

"Indemnified Parties" shall have the meaning stated in Section 10.02 of this Lease.

"Lease" shall mean this instrument as originally executed or as it may from time to time be supplemented or amended by one or more instruments supplemental hereto.

"Leased Land" shall mean the real property located at \_\_\_ Middlebrook Pike, Knoxville, Tennessee, which such property has been subdivided as Tax Parcel No. \_\_\_\_\_, and described in Exhibit A attached hereto, as adjusted pursuant to the terms of Section 5.04 of this Lease.

"Leased Premises" shall mean the Leased Land and Improvements together with any other buildings, improvements or fixtures constructed or to be constructed on the Leased Land.

"Lessee" shall mean Metro Knoxville HMA, LLC, or its successors and assigns as permitted herein.

"Lessee's Financing" shall mean, collectively, any financing for the construction of the Improvements, permanent financing upon completion of the Improvements and other financing in connection with the Project obtained by Lessee during the Term, as the same may be amended, modified, supplemented or restated.

"Lessor" shall mean The Industrial Development Board of the City of Knoxville, a Tennessee public nonprofit corporation.

"Loan" shall mean any existing or hereafter incurred indebtedness made to Lessee for construction or financing of the Improvements which is secured by this Lease.

"Mortgagee Transfer Date" shall have the meaning stated in Section 12.02(f) of this Lease.

"New Lease" shall have the meaning stated in Section 12.02(e) of this Lease.

"Original Lessee" shall mean Metro Knoxville HMA, LLC or an Affiliate thereof.

**["Parcel B Lease" shall mean the Lease dated as of \_\_\_\_\_ by and between The Industrial Development Board of the City of Knoxville, as Lessor, and \_\_\_\_\_, as Lessee in connection with leased land and to be constructed improvements located at \_\_\_\_\_, and all amendments, modifications or restatements thereof.]**

"Project" shall mean real estate development project described herein which includes the Leased Land and the Improvements.

"Resolutions" shall mean the City Council Resolution and the IDB Resolution.



"Tax Year" shall mean each annual period beginning on January 1 of each year and ending on December 31 of that year.

"Term" shall mean the term described in Article III hereof.

"Transfer Requirements" shall have the meaning stated in Section 12.01(a) of this Lease.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS OF LESSEE

Lessee makes the following representations, covenants and warranties to induce Lessor to enter into this Lease:

(a) Lessee is a limited liability company duly formed and existing under the laws of the State of Tennessee, authorized to conduct business in the State of Tennessee and is in good standing under Tennessee law, with full power and authority to enter into this Agreement and to perform all obligations contained herein and therein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessee enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Lease, nor the consummation of the transactions contemplated herein by Lessee, nor the fulfillment of or compliance with the terms and conditions of this Lease, does or will conflict with or result in a breach of the terms, conditions or provisions of any restriction or internal governing document of Lessee or any agreement or instrument to which Lessee is now a party or by which it is bound, or any existing law, rule, regulation, judgment, order or decree to which it is subject, or constitutes a default under any of the foregoing or, except as contemplated hereby, results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessee under the terms of any instrument or agreement.

(c) There are no proceedings pending, or to the knowledge of Lessee threatened, against or affecting Lessee in any court or before any governmental authority, arbitration board or tribunal which affect the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of Lessee, or the ability of Lessee to perform its obligations under this Lease. Lessee is not in default with respect to an order of any court, governmental authority, arbitration board or tribunal.

(d) No event has occurred and no condition exists with respect to Lessee that would constitute an Event of Default under this Lease, or which, with the lapse of time or with the giving of notice, or both, would become such an Event of Default.

(e) Except as indicated in that certain \_\_\_\_\_ [PHASE I ESA] \_\_\_\_\_, to the best of Lessee's actual knowledge, there are no substances, materials, wastes, pollutants or contaminants located on the Leased Premises that are regulated under any environmental law or regulation except those materials and substances that are maintained in compliance with such laws and regulations, and Lessee shall not permit any such

substances, materials, wastes, pollutants or contaminants to exist on the Leased Premises during the Term of this Lease except in compliance with such laws and regulations.

(f) Lessee commits to construct the Health Care Facilities on the Leased Land on or before the Construction Completion Date.

(g) No portion of the Health Care Facilities or the Leased Land will be used for as a "Retail business" within the meaning of the Act, without the prior written consent of the City Council of the City of Knoxville and the County Commission of Knox County, Tennessee.

### **ARTICLE III**

#### **LEASE TERM**

Subject to the provisions contained in this Lease, this Lease shall be in full force and effect for a Term commencing on the date hereof (the "Effective Date") and ending fifteen (15) years after the Construction Completion Date, unless previously terminated as provided below. Within thirty (30) after the Construction Completion Date, Lessor and Lessee shall execute and deliver a lease commencement agreement, in form reasonably acceptable to each party, defining the exact term of the Lease and the exact amount of the PILOT Payments pursuant to Section 7.04(a).

### **ARTICLE IV**

#### **RENT**

Section 4.01. Basic Rent. Lessee will pay to Lessor without notice or demand, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, as Basic Rent: (a) a closing fee of \$35,000.00; and (b) the first installment of annual rent in the amount of \$100.00 (with subsequent installments of annual rent to be paid on or before each anniversary of the Effective Date throughout the Term); (c) an annual maintenance fee of \$2,000.00 which shall be paid at commencement of the Lease and thereafter within thirty (30) days after written notice from Lessor to Lessee given on or about each anniversary of the Effective Date throughout the term and (c) all costs and expenses incurred by Lessor in connection with its obligations described herein including but not limited to reasonable attorney fees and out-of-pocket expenses incurred by Lessor prior to the Effective Date in connection with this Lease.

#### Section 4.02. Additional Rent.

(a) Lessee agrees, as additional rent, to complete the construction of the Improvements contemplated in Article XI of this Lease on or before the Construction Completion Date and to pay all other amounts, liabilities and obligations which Lessee herein assumes or agrees to pay.

(b) Lessee shall also pay as additional rent the payments in lieu of taxes described in Section 7.04 hereof.

(c) Without limiting the foregoing, Lessor and Lessee recognize that the Leased Premises have been conveyed to Lessor subject to the encumbrances more particularly described

in Exhibit B hereto. Lessee agrees to make all payments of debt service relating to the Loans and such payments shall constitute additional rent hereunder.

## ARTICLE V

### COMPLIANCE WITH LAWS; PERMITTED CONTESTS; LESSEE'S ACCEPTANCE OF LEASED PREMISES

Section 5.01. Compliance with Laws. Lessee shall throughout the Term and at no expense to Lessor promptly cure any violations under all laws, ordinances, orders, rules, regulations and requirements of duly constituted public authorities, which are or shall become applicable to the Leased Premises, the repair and alteration thereof, and the use or manner of use of the Leased Premises, whether or not such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not they shall involve any change of governmental policy or shall require structural or extraordinary repairs, alterations or additions, irrespective of the cost thereof; provided, however, that Lessee, in lieu of compliance with such laws, orders, rules, regulations and requirements, or the making of such additions, changes or alterations, may, at its option, exercise its right to purchase the Leased Premises, pursuant to Section 14.01 below and, in such event shall have no further liability hereunder.

Section 5.02. Permitted Contests. Lessee shall not be required to comply or cause compliance with the laws, ordinances, orders, rules, regulations or requirements referenced in Section 5.01, so long as Lessee shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings. Such contest may be made by Lessee in the name of Lessor or of Lessee, or both, as Lessee shall determine and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee in any such contest to such extent as Lessee may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

Section 5.03. Acceptance of Leased Premises. Lessee acknowledges that (a) it has examined the Project described in Exhibit A attached hereto and the state of Lessor's title thereto prior to the making of this Lease and knows the condition and state thereof, including, without limitation, the environmental and soil conditions, as of the first day of the term of this Lease; (b) it accepts the same in said condition; (c) no representations as to the condition or state thereof have been made by representatives of Lessor; and (d) in entering into this Lease, Lessee is relying solely upon its own examination thereof.

Section 5.04. Adjustments to Leased Premises. The parties acknowledge that Lessee may desire to adjust the boundaries of the Leased Land prior to the Construction Completion Date in order to facilitate development of the Project. Lessor agrees cooperate and assist with any such requested boundary adjustment, at Lessee's sole cost, between the Effective Date and the Construction Completion Date, and to execute any required amendments to this Lease to reflect such revisions to the Leased Land. In the event of such alteration, (A) Lessee shall convey to Lessor additional land to be included as part of the Leased Land, and Lessor agrees to acquire such

additional property and incorporate such additional land as part of the Leased Land, and (B) Lessor at the request of Lessee shall convey to Lessee any portion of the Leased Land which Lessee determines is not necessary to facilitate the development of the Project. Notwithstanding the foregoing, Lessee acknowledges and agrees that Lessor's obligation to assist with any such requested revisions is subject to Lessee obtaining prior written approval from the City of Knoxville for any such adjustment to the Leased Premises (i) if the acreage of the Leased Land increases by more than 30% or (ii) if the primary purpose of the Health Care Facilities changes during the Construction Period.

## **ARTICLE VI**

### **TITLE AND TAX BENEFITS**

Section 6.01. No Conveyance of Title by Lessor. Lessor covenants and agrees that, except as set forth herein, during the Term of this Lease, it will not convey, or suffer or permit the conveyance of, by any voluntary act on its part, its title to the Leased Premises to any person, firm, corporation, or other entity whatsoever, irrespective of whether any such conveyance or attempted conveyance shall recite that it is expressly subject to the terms of this Lease unless such conveyance is consented to, in writing, by Lessee. Lessor will not create any lien, encumbrance or charge upon its interest in the Leased Premises except for any such lien, encumbrance or charge otherwise created by this Lease or consented to, in writing, by Lessee.

Section 6.02. Tax Benefits. During the Term, Lessee shall be entitled to all benefits under federal and state tax laws attributable to the ownership of the Leased Premises, including, without limitation, the right to claim deductions for depreciation and the right to claim any tax credits attributable to the Leased Premises.

## **ARTICLE VII**

### **TAXES AND OTHER CHARGES**

Section 7.01. Taxes and Other Governmental Charges. Lessee agrees, subject to the provisions of Section 7.04, to pay and discharge, as additional rent, punctually as and when the same shall become due and payable without penalty, all ad valorem taxes that at any time from the date hereof and during the Term shall be or become due and payable by Lessor or Lessee and that shall be levied, assessed or imposed upon, or that shall be or become liens upon, the Leased Premises or any portion thereof or any interest of Lessor or Lessee therein, under and by virtue of any present or future law, statute, regulation or other requirement of any governmental authority.

Section 7.02. Lessee Subrogated to Lessor's Rights. To the extent of any payments of additional rent by Lessee under this Article VII, Lessee shall be subrogated to Lessor's rights in respect to the proceedings or matters relating to such payments, and any recovery in such proceedings or matter shall be used to reimburse Lessee for the amount of such additional rent so paid by Lessee.

**Section 7.03. Utility Services.** Lessee agrees that Lessor is not, nor shall it be, required to furnish to Lessee or any other user of the Leased Premises any gas, water, sewer, electricity, light, heat, power or any other facilities, equipment, labor, materials or services of any kind and Lessee agrees that it shall pay all costs and expenses related to the foregoing.

**Section 7.04. Payments in Lieu of Taxes.**

(a) **PILOT Payments.** Lessee recognizes that under present law, including specifically Section 7-53-305 of the Act, the properties owned by Lessor are exempt from all taxation in the State of Tennessee. However, as long as this Lease is in effect, Lessee agrees to make payments in lieu of taxes to the City of Knoxville, Tennessee and Knox County, Tennessee in accordance with the provisions of this **Section 7.04.** From the Effective Date until the end of the Term of the Lease, Lessee shall make annual payments in lieu of taxes to the City of Knoxville and Knox County equal to the amount which were due and payable with respect to the Leased Premises for tax year 2018 (based upon a prorated allocation of the taxes for the parcel of which the Leased Premises are a part based upon acreage).

(b) **First Tax Year and Final Tax Year.** For (1) the Tax Year in which this Lease is executed and for (2) the Tax Year in which the Term expires or is earlier terminated (each such year referred to hereinafter as a "Partial Tax Year") where the Leased Premises are owned by Lessee for part of such Tax Year and by Lessor for part of such Tax Year, Lessee shall pay to the City of Knoxville and Knox County, respectively, for the Leased Premises (i) to the extent unpaid as of the Effective Date hereof, a prorated portion of the property taxes due with respect to the Leased Premises for the Partial Tax Year for the period of the Partial Tax Year that the Leased Premises were not owned by Lessor plus (ii) a prorated portion of the PILOT payments due with respect to the Leased Premises for the portion of the Partial Tax Year when the Leased Premises were owned by Lessor.

(c) **Full Tax Years.** For each full Tax Year after the Effective Date hereof throughout the Term, Lessee shall make an annual payment in lieu of taxes on behalf of Lessor as set forth in **Section 7.04(a)** and **Section 7.04(d)** herein. Thereafter, if this Lease remains in effect, Lessee shall make a payment in lieu of taxes with respect to each Tax Year on behalf of Lessor to the City of Knoxville, Tennessee and Knox County, Tennessee in an amount equal to the ad valorem taxes which would otherwise be payable with respect to the Leased Premises if such Leased Premises were owned by Lessee. Any additional payment in lieu of tax paid pursuant to this paragraph shall be divided between the City of Knoxville and Knox County in the same proportion that each of their property tax rates bear to the total property tax rates of the City of Knoxville and Knox County.

(d) **Aggregate Tax Savings.** Once the difference between (i) the aggregate of ad valorem taxes which otherwise would have been payable with respect to the Leased Premises and the premises leased under the Parcel B Lease (if such Leased Premises and the premises leased under Parcel B Lease were owned by such lessees as private taxpayers rather than governmental entities), and (ii) the payments in lieu of taxes paid under this Lease and the Parcel B Lease, equals \$16,000,000 in the aggregate (such amount referred to hereinafter as the "Aggregate Tax Savings"), the payments in lieu of taxes required to be paid by Lessee described in this **Section 7.04** shall equal the amounts of the ad valorem taxes which would otherwise be payable with

respect to the Leased Premises if such Leased Premises were owned by Lessee and not owned by Lessor notwithstanding any provision herein to the contrary. If Aggregate Tax Savings is reached in a Tax Year, Lessee and the lessee under the Parcel B Lease shall be permitted to make payments in lieu of taxes in the reduced amounts provided herein and therein until to the Aggregate Tax Savings are achieved and thereafter Lessee shall pay any difference as a payment in lieu of tax with respect to the Leased Premises as required by this subsection.

(e) Maximum Tax Payment. Nothing contained in this Section 7.04 is intended or shall be construed to require the payment by Lessee of any greater amounts in lieu of taxes than would be payable as taxes if the Leased Premises were owned by Lessee. It is accordingly understood and agreed that the amount payable by Lessee in any year under the provisions of this Section 7.04 shall be reduced (1) by the amount of any ad valorem taxes lawfully levied upon the Leased Premises or any part thereof, or upon Lessee's leasehold estate therein, and actually paid by Lessee to the City of Knoxville or Knox County pursuant to the requirements of Section 7.01 hereof and (2) to the extent that any such tax payments paid by Lessee pursuant to the requirements of Section 7.01 hereof for any year shall exceed the in-lieu-of-tax payments for such year otherwise provided in this Section 7.04 the amount payable by Lessee in any subsequent year under the provisions of this Section 7.04 shall be reduced by such excess amount.

(f) Valuation and Assessment. In furtherance of the agreements in this Section, it is agreed by and between the parties hereto that Lessee in cooperation with Lessor shall cause the Leased Premises to be valued and assessed by the assessor or other official or officials charged with the responsibility of assessing privately owned commercial property in the area where the Leased Premises are located at the time such privately owned property is valued or assessed. Lessee in cooperation with Lessor (i) shall cause to be applied to the appropriate taxable value of the Leased Premises the tax rate or rates that would be applicable for state and local tax purposes if the property were then privately owned, and (ii) shall cause the county trustee or other official or officials charged with the responsibility of collecting taxes to submit annually to Lessee a statement of the taxes which would otherwise then be chargeable to the Leased Premises. The right is reserved to Lessee to the same extent as if Lessee were the owner of the Leased Premises to contest the validity or amount of any such assessment.

(g) Time of Payment. The tax payments and in lieu of tax payments owed for the First Tax Year, if they can be determined, shall be paid at the time of the commencement of this Lease. Thereafter, each payment in lieu of taxes required by this Section 7.04 (other than those described in the third paragraph above) shall be due on or before (i) February 28 following the Tax Year with respect to which each such payment relates; and (ii) for the final Tax Year of the Term, payments in lieu of tax payments required by this Lease, and payments of taxes owed for the remainder of the Tax Year after termination of this Lease, shall be due and payable on the last day of the Term. The obligation to make any payment in lieu of taxes with respect to any Tax Year shall survive the termination of this Lease.

(h) Tax on Additional Improvements. The payments in lieu of taxes payable hereunder shall only apply to the Leased Land and the Improvements thereon as constructed pursuant to Article XI hereof. In the event Lessee constructs improvements on the Leased Land other than the Improvements described in Article XI hereof, Lessee shall make payments in lieu of taxes to the appropriate taxing jurisdictions with respect to such additional improvements in an amount equal

to the ad valorem taxes that would otherwise be payable by Lessee if Lessee was the owner of such additional improvements unless the parties hereto agree in writing to the contrary.

**Section 7.05. Permitted Contests.** Lessee shall not be required to pay any tax or assessment against the Leased Premises or any part thereof, so long as Lessee shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings which shall operate to prevent the collection of the tax or assessment so contested or resulting from such contest and the sale of the Leased Premises or any part thereof to satisfy the same. Such contest may be made by Lessee in the name of Lessor or of Lessee, or both, as Lessee shall determine, and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee in any such contest to such extent as Lessee may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

## **ARTICLE VIII**

### **MAINTENANCE AND REPAIR**

Lessor shall not be required to rebuild or to make any repairs, replacements or renewals of any nature or description to the Leased Premises or to make any expenditures whatsoever in connection with this Lease or to maintain the Leased Premises in any way. Lessee expressly waives the right contained in any law now or hereafter in effect to make any repairs at the expense of Lessor.

Except as provided in the next paragraph, Lessee shall keep and maintain in good order, condition and repair (including any such repair as is required due to fire, storm or other casualty) the Leased Premises and every part thereof and any and all appurtenances thereto. Lessee shall save Lessor harmless on account of claims for mechanics, materialmen's or other liens in connection with any work by Lessee, and any such liens shall exist only against Lessee's leasehold interest and shall be discharged, by bond or otherwise, within sixty (60) days after filing. Lessee shall keep and maintain the Leased Premises in accordance with all directions, rules and regulations of the proper officials of the government agencies having jurisdiction, at the sole cost and expense of Lessee.

In the event the Improvements are destroyed or substantially damaged by fire, storm or other casualty, Lessee shall not be required to rebuild the Improvements on the Leased Premises. In the event Lessee does not elect to rebuild the Improvements on the Leased Premises in such a case, Lessee shall within a reasonable period of time not to exceed one hundred eighty (180) days after such casualty (a) remove all rubble, debris, materials and any remaining improvements on the Leased Premises so that the Leased Premises are in good condition and would be ready to develop with other improvements, and (b) exercise the option to purchase described in Section 14.01 of this Lease.

## **ARTICLE IX**

### **CONDEMNATION**

If during the Term, all or any part of the Leased Premises be taken by the exercise of the power of eminent domain or condemnation, Lessee shall be entitled to and shall receive the entire award for the taking regardless of whether such taking or condemnation results in the termination of this Lease. If title to or control of all of the Leased Premises shall be taken by the exercise of the power of eminent domain or condemnation, or if such use or control of a substantial part of the Leased Premises shall be taken, and as a result Lessee reasonably determines that the remainder of the Leased Premises is no longer suitable for Lessee's then intended use thereof or the operation of the businesses then located on the Leased Premises is no longer economically feasible, Lessee may terminate this Lease by giving written notice to the Lessor. Such termination, however, will be without prejudice to the rights of Lessee to recover from the condemnor compensation and damage caused by such condemnation or taking. Notwithstanding the foregoing or anything to the contrary in this Lease, in the event all or any part of the Leased Premises are taken by the exercise of the power of eminent domain or condemnation, the condemnation award shall be applied as provided in any mortgage (or deed of trust) pursuant to which Lessee has mortgaged the Leased Premises.

## **ARTICLE X**

### **INSURANCE, INDEMNIFICATION AND LIMITATION OF LIABILITY**

**Section 10.01. Insurance.** Lessee shall carry commercial public liability insurance covering the Leased Premises and the use and occupancy of the same in a company or companies licensed to do business in Tennessee under a policy reasonably satisfactory to Lessor both as to amount and coverage and shall provide evidence of same to Lessor. Lessor shall be listed as an additional insured on such policy. Lessee shall also insure all improvements on the Leased Premises at their full replacement value, with Lessor being included as an additional insured, and Lessee shall provide evidence of same to Lessor. Any insurance proceeds from such insurance shall be applied as provided in any deed of trust pursuant to which Lessee has mortgaged the Leased Premises; provided, however, such application shall not excuse performance by Lessee of Lessee's obligations under Article VIII and provided, further, except as may be provided in such deed of trust, Lessee shall be deemed the owner of and shall be entitled to the receipt of all such insurance proceeds. Each policy described above shall contain a provision that it may not be canceled without first giving Lessor not less than thirty (30) days prior written notice.

**Section 10.02. Indemnification.** Lessee covenants and agrees, at its expense, to pay, and to indemnify and save Lessor and its directors, agents and employees (collectively, the "Indemnified Parties") harmless against and from any and all claims by or on behalf of any person, firm, corporation, or governmental authority, arising from the occupation, use, possession, conduct or management of or from any work or activity done in or about the Leased Premises or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Leased Premises or the occupancy or use thereof. Lessee also covenants and agrees, at its expense, to pay, and to indemnify and save the Indemnified Parties harmless against and from, any and all claims, costs or expenses arising



from (i) any condition, including any environmental condition, now existing or hereafter arising, on the Leased Premises, (ii) any breach or default on the part of Lessee in the performance of any covenant or agreement to be performed by Lessee pursuant to this Lease, (iii) any act or negligence of Lessee, or any of its agents, contractors, servants, employees or licensees, or (iv) any accident, injury or damage whatever caused to any person, firm or corporation in or about the Leased Premises and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this Section. In the event that any action or proceeding is brought against any Indemnified Party by reason of any such claims, Lessee, upon notice from such Indemnified Party, covenants to resist or defend such action or proceeding. The indemnification provided shall survive termination of this Lease.

**Section 10.03. Limitation of Liability.** This Lease and the obligations of Lessor hereunder shall be non-recourse as to Lessor, and Lessor shall have absolutely no personal or individual liability with respect to any of the terms, covenants and conditions of this Lease. Lessee hereby expressly agrees that it shall look solely to the equity of Lessor or its successor(s) interest in the Leased Premises for the satisfaction of any remedy of Lessee in the event of any breach by Lessor of any of the terms, covenants and conditions of this Lease. This exculpation of Lessor's personal liability is absolute and without any exception whatsoever. Lessee acknowledges that Lessor is a governmental entity and is subject to the protection of the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated § 29-20-101 through 29-20-408 (as amended from time to time), and nothing contained herein shall constitute a waiver or release of Lessor's rights and protections under said Act.

## **ARTICLE XI**

### **CONSTRUCTION OF IMPROVEMENTS; ALTERATIONS**

Lessee agrees to construct the Improvements on or before the Construction Completion Date and use the Leased Premises for the Health Care Facilities and no other purpose unless permitted in writing by the City of Knoxville.

Lessee also agrees to develop the Project pursuant to schematic designs provided by Lessee to Lessor and approved by the City of Knoxville. Lessor and Lessee acknowledge that the schematic designs for the development and construction of the Improvements may not be completed as of the Effective Date, and if not completed, Lessee agrees to submit such schematic designs to the City of Knoxville for approval and provide a copy to Lessor.

Lessee shall have the right to construct buildings and other improvements on the Leased Land from time to time and to make additions to and alterations of any such buildings and improvements and any existing buildings and Improvements. All work done in connection with such additions, alterations, improvements or construction shall be done promptly, and in good and workmanlike manner, and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and offices thereof. Lessee shall maintain or cause to be maintained, at all times when any work is in process in connection with such additions, alterations, improvements or construction, workmen's compensation insurance covering all persons employed in connection

with such work and with respect to whom death or bodily injury claims could be asserted against Lessor, Lessee or the Leased Premises.

Lessee covenants and agrees the Costs of the Project shall not be less than \$ \_\_\_\_\_. It is understood and agreed that such facility, together with all other improvements or fixtures from time to time placed on the Leased Land, shall become the property of Lessor and part of the Leased Premises. The cost of the construction of the Improvements shall be treated as additional rent payable by Lessee under this Lease. Lessee shall provide to Lessor evidence of the completion of the Project, and spending of anticipated Costs of the Project, in a form reasonably required by Lessor, including, but not limited to, the form attached hereto as **Exhibit D**.

## **ARTICLE XII**

### **SUBLETTING, ASSIGNMENTS AND MORTGAGING**

#### **Section 12.01. Assignment, Subletting and Change of Ownership.**

(a) Lessee shall not have the right to assign or otherwise transfer its rights and interest hereunder except with the prior written consent of Lessor or as explicitly permitted in this Lease Agreement. Notwithstanding the foregoing, Lessor shall, within thirty (30) days of Lessee's written request for Lessor's consent, consent to any assignment, transfer, conveyance, hypothecation or encumbrance of (x) Lessee's rights and interest in the Leased Premises or this Lease or (y) ownership interests in the Lessee (including by way of a merger, reorganization, or sale of all or substantially all of the assets or ownership interests of Lessee or otherwise), if and to the extent such proposed assignee, in the reasonable opinion of Lessor, satisfies the following criteria (collectively the "Transfer Requirements"):

(1) such assignee utilizes the Leased Premises for the purpose of the development and/or operation of the Project during the Term,

(2) such assignee or its owner either (A) is an Affiliate of Original Lessee, (B) engages Original Lessee in the active operation of the Project through the Term pursuant to a lease, management contract, or other comparable arrangement which comparable arrangement is reasonably acceptable to the City of Knoxville, or (C) is, or engages, a reputable and experienced developer, manager or owner of commercial/retail developments and, only in the case of a transfer of the Leased Premises, the assignee is of such financial standing and operational responsibility as to give reasonable assurance of the payment of all rental and other amounts reserved in this Lease and compliance with all of the terms, covenants, provisions and conditions of this Lease as reasonably determined by the City of Knoxville,

(3) such assignee constructs and/or operates the Leased Premises consistent with the terms of the Resolutions as determined by the Lessor in its reasonable discretion, and Lessee at all times may assign its interest in the Lease to Affiliates of Lessee, and

(4) where the assignee is unrelated to Lessee, and if such assignment occurs during the first three (3) years after the Construction Completion Date, Lessee shall demonstrate to the reasonable satisfaction of the City of Knoxville or the Lessor that Original Lessee will have

an active involvement in the operations of the Leased Land, such involvement to include, but not be limited to, a lease, management contract, ownership interest or similar arrangement through the period of time that is three (3) years after the Construction Completion Date.

(b) Lessee may sublet the Lease Premises or any part thereof to Original Lessee or any entity in which Original Lessee has an interest consistent with the purposes and uses of the development and/or operation of the Project as set forth in this Lease and the Resolutions, without any requirement to obtain the consent of Lessor or the City of Knoxville. Further, Lessee may sublet up to an aggregate of forty-nine percent (49%) of the leaseable area of the Improvements to third parties consistent with the purposes of uses of the development and/or operation of the Project as set forth in this Lease and the Resolutions, without any requirement to obtain the consent of Lessor or the City of Knoxville.

(c) Notwithstanding anything to the contrary contained herein, in no event shall Lessee have any liability hereunder from and after the date that Lessee transfers its interests in and to the Leased Premises pursuant to Section 12.01(a), excepting such monetary obligations of Lessee as accrued prior to the date of such transfer.

(d) Lessor shall consent or withhold such consent by written notice to Lessee within ninety (90) days of Lessee's written request for Lessor's consent or such earlier date of the next regularly scheduled meeting of the Board of Lessor after written request of Lessee and sufficient time for satisfying all notice, publication and other requirements necessary for the Board to consider such matter.

(e) Notwithstanding anything in Section 12.01(a) to the contrary, following the Construction Completion Date, so long as Original Lessee (or its affiliates) is operating the Project as a subtenant pursuant to Section 12.01(b), then the Lessee shall be able to freely assign this Lease Agreement.

#### Section 12.02. Lessee's Financing.

(a) Notwithstanding anything to the contrary contained in the Lease, Lessee is hereby given the right, at any time and from time to time, to mortgage its leasehold estate in the Leased Premises, provided that any such leasehold mortgage shall be subject and subordinate to the rights of Lessor hereunder except as provided herein. As used in this Section and throughout this Lease, (1) the noun "mortgage" shall include a deed to secure debt, mortgage or deed of trust secured by the leasehold estate created by this Lease, as the same may be amended, modified, supplemented or restated; (2) the verb "mortgage" shall include the creation of a deed to secure debt, mortgage or deed of trust secured by the leasehold estate created by this Lease; (3) the word "mortgagee" shall include the holder of a mortgage, and any party that succeeds to Lessee's interest in the Leased Premises as the result of a foreclosure (as hereafter defined), together with their respective successors and assigns; and (4) the terms "foreclose" or "foreclosure" shall include a trustee's sale under a deed of trust as well as a foreclosure by judicial process, any other exercise by a mortgagee of rights and remedies (whether under a mortgage or under applicable law, including bankruptcy law) as holder of the mortgage and/or the loan evidenced thereby, or delivery by Lessee to a

mortgagee of a conveyance of Lessee's interest in the Leased Premises in lieu of any of the foregoing.

(b) Lessor specifically consents to the Lessee's Financing, which Lessor hereby acknowledges and agrees may consist of one or more loans. In connection with Lessee's Financing, Lessor, within ten (10) business days of Lessee's written request therefor, shall execute, acknowledge and deliver to any mortgagee (i) a joinder agreement, in the form attached hereto as Exhibit C, and (ii) an agreement or estoppel, in form reasonably satisfactory to such mortgagee and Lessor and consistent with industry standards, by and among Lessor, Lessee and such mortgagee, (a) agreeing to all of the provisions of this Section 12.02, (b) confirming that Lessee's mortgagee shall be entitled to the benefit of such provisions and (c) providing such certifications, representations and warranties that Lessee's mortgage may reasonably require. In addition, Lessor and Lessee acknowledge that such agreement may contain such reasonable modifications to this Lease as may be required by Lessee's mortgagee, provided that such modifications (1) do not reduce Lessee's monetary obligations under this Lease; (2) are consistent with the Project authorized by the Resolutions; and (3) do not adversely affect any other rights of Lessor under this Lease in any material respect.

(c) If, from time to time, Lessee shall encumber this Lease with a mortgage and for so long as such mortgage shall remain unsatisfied, the following provisions shall apply and, to the extent the same are inconsistent with any other provisions of this Lease, the following provisions shall govern and control:

(1) Mortgagee shall execute and deliver to Lessor an estoppel agreement in a form and substance reasonably acceptable to Lessor and mortgagee to confirm such mortgagee's consent to the terms and conditions of this Section 12.02.

(2) If a mortgagee shall have given Lessor a written notice specifying the name and mailing address of such mortgagee, then Lessor shall not terminate this Lease by reason of the occurrence of any Event of Default hereunder unless Lessor shall have given the mortgagee (i) a copy of its written notice to Lessee of such Event of Default containing a statement of Lessor's intent to exercise its rights hereunder addressed to the mailing address last furnished by the mortgagee, and (ii) the opportunity to cure such Event(s) of Default, as follows: Lessee's mortgagee shall be entitled to cure any stated Event of Default for a period of sixty (60) days after receipt of Lessor's written notice, provided that if the Event of Default is non-monetary in nature and is of such a nature that it is not reasonably susceptible of cure within said sixty (60) day period then, provided Lessee's mortgagee has commenced to cure such Event of Default within such sixty (60) day period and thereafter prosecutes the same to completion with reasonable diligence, Lessee's mortgagee shall be entitled to such additional time as is reasonably necessary to cure such Event of Default. If Lessee's mortgagee cures all stated Events of Default in accordance with the foregoing provisions, then both the notice of Events of Default given to Lessee (with a copy to each mortgagee) shall be deemed satisfied, and of no further force or effect. Lessor agrees to accept performance of Lessee's obligations hereunder by any mortgagee with the same force and effect as though

observed or performed by Lessee. Lessee's mortgagee shall have the right to enter upon the Leased Premises for the purpose of remedying any such default.

(3) If any mortgagee determines that, in order to cure any Event of Default, possession of, or title to, the leasehold estate of Lessee hereunder is required or if the Event of Default is of such a nature that it is not reasonably susceptible of cure by mortgagee, then Lessor shall not be entitled to exercise any of its remedies provided that: (i) such mortgagee notifies Lessor within the sixty (60) day cure period afforded the mortgagee that it intends to acquire possession of, or title to, the leasehold estate; (ii) such mortgagee cures any Event(s) of Default and performs any of Lessee's obligations under this Lease which are reasonably susceptible of being cured or performed by the mortgagee prior to having gained possession of, or title to, the leasehold estate; and (iii) the mortgagee takes steps promptly to acquire Lessee's interest in this Lease by foreclosure or otherwise and prosecutes the same to completion with reasonable diligence, except to the extent enjoined or stayed. Upon completion of the conveyance of Lessee's leasehold interest hereunder by foreclosure or otherwise, this Lease shall, subject to the provisions of Section 12.02(f), continue in full force and effect as a Lease between Lessor and the mortgagee, its designee or the purchaser of the leasehold estate in any foreclosure proceedings, and the mortgagee, its designee or such purchaser shall with due diligence cure any remaining Event of Default which is reasonably susceptible of being cured.

(4) Nothing contained herein shall require the mortgagee, as a condition to its exercise of any of its rights hereunder, to cure any Event of Default not reasonably susceptible of being cured by the mortgagee, including but not limited to, an Event of Default based upon the bankruptcy or insolvency of Lessee or the past occurrence of an act or the omission thereof which, in and of itself, is or would constitute an Event of Default. The mortgagee shall not be required to continue such foreclosure or other steps in the event that the stated Event of Default is cured. If the stated Event of Default is cured and the mortgagee discontinues such foreclosure or other steps, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease. Any nonmonetary default not susceptible of being cured by the mortgagee, including, without limitation, the bankruptcy or insolvency of Lessee or the past occurrence of an act or the omission thereof which, in and of itself, is or would constitute an Event of Default, shall be and shall be deemed to have been waived by Lessor upon completion of the foreclosure. It is understood and agreed that construction of the Improvements in accordance with Article XI and payment of Basic Rent and Additional Rent are and shall be deemed to be defaults which are susceptible to cure by a mortgagee (subject, as necessary, to obtaining title to the Project), provided, however, Lessor acknowledges and agrees that any required time frame for completion of the Improvements and/or operation of the Project shall be deemed tolled for an amount of time equal to the time between the date of such Event of Default and the date such mortgagee (or its assignee or designee) shall have acquired title to the Project plus such additional time as be reasonably necessary for the mortgagee to comply

with the developmental or operational requirements of this Lease so long as mortgagee is diligently pursuing the steps necessary to achieve such compliance.

(5) If Lessor shall elect to terminate this Lease by reason of any Event of Default, Lessee's mortgagee shall have the right to postpone and extend the date of termination of this Lease from the expiration of the additional sixty (60) day period above, provided that the mortgagee shall have cured or caused to be cured any existing monetary Event of Default and thereafter pay the Basic Rent and Additional Rent required to be paid hereunder and forthwith commence necessary action to acquire or transfer Lessee's interest and estate secured by the mortgage by foreclosure thereof, or otherwise, and shall prosecute such action to completion with due diligence and continuity. If the mortgagee shall be actively pursuing the acquisition or transfer of Lessee's interest hereunder or if mortgagee shall be enjoined or stayed from commencing or pursuing such action to acquire or transfer Lessee's leasehold estate as a result of a proceeding involving Lessee arising under the Bankruptcy Code, the time for Lessee's mortgagee to comply with this Section 12.02(c)(5) shall be extended for such period as shall be reasonably necessary to complete acquisition or transfer with reasonable diligence and continuity.

(6) Provided that the Transfer Requirements are satisfied and subject to Section 12.02(g), in the event of any foreclosure under any mortgage, all right, title and interest of Lessee under this Lease may be assigned to and vested in the purchaser or transferee at such foreclosure; and such purchaser or transferee shall be vested with all right, title and interest of Lessee under this Lease, provided that such purchaser or transferee shall thereafter be subject to all the requirements of Lessee to Lessor set forth herein.

(7) Under no circumstances shall any mortgagee be liable for the performance of Lessee's obligations hereunder unless and until such mortgagee succeeds to the interest of Lessee under this Lease. In the event that a mortgagee succeeds to the interest of Lessee under this Lease, the liability of such mortgagee, its successors and assigns, shall be limited to its leasehold interest in this Lease, and upon the sale or assignment of its leasehold interest in this Lease, such successor lessee shall have no liability under this Lease for any obligations accruing from and after the date of such assignment or transfer. Neither the mortgagee, its successors and assigns, nor any agent, partner, officer, trustee, director, shareholder, director or principal (disclosed or undisclosed) of the mortgagee, its successors or assigns, shall have any personal liability hereunder.

(8) No modification, amendment or supplement of this Lease shall be effective as against Lessee's mortgagee unless a copy of the proposed change shall have been delivered to such mortgagee and such mortgagee shall have approved the change in writing. No merger of this Lease and the fee estate in the Leased Premises shall occur on account of the acquisition by the same or related parties of the leasehold estate created by this Lease and the fee estate in the Leased Premises without prior written consent of Lessee's mortgagee.

(d) Lessor acknowledges that Lessee may grant the mortgagee the right to exercise Lessee's option to purchase the Leased Premises as provided in Section 14.01 of this Lease. Lessee irrevocably direct that Lessor accept, and Lessor agrees to accept, performance by any such mortgagee of the Lessee's right to exercise the option to purchase the Leased Premises granted to Lessee by Section 14.01 hereof, regardless whether and Event of Default has occurred, provided such performance by said mortgagee shall occur within the period of time granted to Lessee by the terms hereunder to exercise such right.

(e) Notwithstanding the term of any mortgage, Lessee's mortgagee shall have no further rights in the Lease except as stated herein.

(f) Lessor covenants that in the event of a termination of this Lease for any reason, including, but not limited to as a result of any disaffirming or rejection of this Lease in connection with a proceeding involving Lessee pursuant to the Bankruptcy Code, and subject to the rights herein granted to a mortgagee, Lessor shall serve upon the mortgagee notice that this Lease has been terminated together with a statement of any and all sums which would, at that time, be due under this Lease but, for such termination, and of all other defaults, if any, under this Lease then known to Lessor. At option of the mortgagee, Lessor shall enter into a new lease ("New Lease") of the Leased Premises with a person or entity designated by the mortgagee, subject to the provisions of Section 12.02(f). The New Lease shall be (i) effective and commence as of the date of termination of this Lease, (ii) at the same Rent and upon the same terms, provisions, covenants and agreements as contained in this Lease, (iii) subject to the conditions of title with respect to the Leased Premises as exist on the commencement date of the New Lease and (iv) subject to the rights, if any, of parties then in possession (actual or constructive) of all or any part of the Leased Premises. Lessor shall assign to mortgagee, without recourse, warranty or representation of any kind and on such form as is reasonably acceptable to Lessor, all of Lessor's interest in any sublease, if any. The terms of this Section 12.02(f) are subject to the following provisions:

- (1) The mortgagee shall make written request upon Lessor for the execution of such New Lease within thirty (30) days following notice from Lessor to mortgagee that this Lease has been terminated, which request shall be accompanied by payment to Lessor of all sums then due Lessor by Lessee, or by the mortgagee, or both, under this Lease;
- (2) The mortgagee shall pay to Lessor, at the time of execution and delivery of the New Lease, any sums not yet paid that, at the time of its execution and delivery, would be due pursuant to this Lease but for the termination thereof;
- (3) The New Lease shall be executed and delivered within thirty (30) days after the date the mortgagee requests that a New Lease be executed;
- (4) The mortgagee shall perform and observe all covenants contained in the New Lease on Lessee's part to be performed during the period the mortgagee is in possession of the Leased Premises under the New Lease and shall further remedy any other condition with respect to the Leased

Premises that Lessee was obligated to remedy under the terms of this Lease, subject to the additional time frames for compliance afforded to mortgagee pursuant to Section 12.02(c) above; and

- (5) The mortgagee as lessee under the New Lease shall assume all of the obligations of Lessee under any sublease first accruing on or after the effective date of the New Lease.

The mortgagee as lessee under the New Lease shall have the same right, title and interest in and to the Leased Premises as Lessee had under this Lease at the time of its termination.

(g) If and to the extent that a mortgagee succeeds to the interest of the Lessee or becomes the Lessee pursuant to a New Lease (the "Mortgagee Transfer Date"), and Lessor has not reasonably determined that such mortgagee satisfies the Transfer Requirements on or about the Mortgagee Transfer Date, it is understood and agreed that such mortgagee shall nevertheless be entitled to the benefits of this Lease for a period of nine (9) months after the Mortgagee Transfer Date without satisfying the Transfer Requirements, provided, however, mortgagee shall be provided with an additional period of time of up to three (3) months to satisfy the Transfer Requirements, if, in the Lessor's reasonable discretion, mortgagee has been diligently pursuing a transfer of the Leased Premises (or the mortgagee's interest therein) in accordance with the Transfer Requirements. If, by the expiration of such nine (9) month period (as the same may be extended in accordance with the prior sentence), mortgagee has not satisfied the Transfer Requirements in the reasonable discretion of Lessor, Lessor may terminate this Lease.

### ARTICLE XIII

#### EVENTS OF DEFAULT; TERMINATION; ORIGINAL LESSEE'S RIGHTS

Section 13.01. Event of Default; Termination. If any one or more of the following events (herein called "Events of Default") shall happen:

- (a) if Lessee shall cease to exist as a legal entity (as determined by the State in which the Lessee is organized);
- (b) if Lessee shall default under any material obligations under this Lease;
- (c) if Lessee shall fail to construct the Improvements as required by the terms of Article XI of this Lease on or before the Construction Completion Date;
- (d) if Lessee fails to spend an amount substantially equal or greater to the Costs of the Project in order to complete the construction of the Project;
- (e) if Lessee fails to maintain the commercial public liability insurance required herein;
- (f) if default shall be made in the due and punctual payment of any payment due pursuant to Section 7.04 hereof;



(g) if more than ten percent (10%) of the ownership interests in the Lessee are transferred to ownership different from ownership of the Lessee at the time the Project was approved by the City Council of the City of Knoxville and by Lessor; provided, however, no transfer of ownership interests in the Lessee shall be deemed a transfer for purposes of this Article XIII as long as such transfer complies with the Transfer Requirements or otherwise satisfies Section 12.01(e); or

(h) if default shall be made by Lessee in the due performance of or compliance with any of the terms hereof;

then in any such event Lessor at any time thereafter and, while such Event of Default shall continue, may give a written termination notice to Lessee, which notice shall specify the nature of the Event of Default, the right of Lessee to cure such Event of Default, and a date of termination of this Lease not less than thirty (30) days after Lessee's receipt of such notice if such Event of Default is not cured on or prior to such stated date of termination. Notwithstanding the foregoing or anything herein to the contrary, if (i) Lessee cures such Event of Default within thirty (30) days after its receipt of Lessor's written notice thereof, such notice shall be deemed null and void, in which case this Lease shall remain in full force and effect, and (ii) if Lessee fails to cure such Event of Default and this Lease terminates, Lessee shall nonetheless have the right to exercise the option to purchase the Leased Premises pursuant to Section 14.01 below. Lessor hereby expressly acknowledges and agrees that Lessee's option to purchase the Leased Premises expressly survives the termination of this Lease. Lessor further expressly acknowledges and agrees that Lessor's sole and exclusive remedy for any Event of Default shall be termination of this Lease in accordance with the terms hereof.

Section 13.02. Original Lessee's Rights. Lessor shall not terminate this Lease by reason of the occurrence of any Event of Default hereunder unless Lessor shall have given the Original Lessee (i) a copy of its written notice to Lessee of such Event of Default containing a statement of Lessor's intent to exercise its rights hereunder addressed to the mailing address last furnished by the mortgagee, and (ii) the opportunity to cure such Event(s) of Default, as follows: Original Lessee shall be entitled to cure any stated Event of Default for a period of sixty (60) days after receipt by Original Lessee of Lessor's written notice, provided that if the Event of Default is non-monetary in nature and is of such a nature that it is not reasonably susceptible of cure within said sixty (60) day period then, provided Original Lessee has commenced to cure such Event of Default within such sixty (60) day period and thereafter prosecutes the same to completion with reasonable diligence, Original Lessee shall be entitled to such additional time as is reasonably necessary to cure such Event of Default. If Original Lessee cures all stated Events of Default in accordance with the foregoing provisions, then both the notice of Events of Default given to Lessee (with a copy to each Original Lessee) shall be deemed satisfied, and of no further force or effect. Lessor agrees to accept performance of Lessee's obligations hereunder by Original Lessee with the same force and effect as though observed or performed by Lessee. Original Lessee shall have the right to enter upon the Leased Premises for the purpose of remedying any such default.

## ARTICLE XIV

### PURCHASES AND PURCHASE PRICES

Section 14.01. Option to Purchase. Lessee (or its mortgagee as provided herein) shall have an option to purchase the Leased Premises for an amount equal to \$100 at any time during the Term and until (i) the Term has ended and Lessor has given notice of the end of such Term to Lessee (unless such time is extended by Lessor), (ii) the occurrence of a fire or other casualty and expiration of the 180-day determination period provided in Article VIII above, or (iii) Lessor's termination of the Lease following an uncured Event of Default. To exercise such option Lessee shall (i) give Lessor at least ten (10) calendar days' prior written notice of its intent to exercise the option to purchase the Leased Premises granted pursuant to this Section 14.01, which notice shall state the intended purchase date, and (ii) comply with the provisions of Section 14.03 hereof. The option to be exercised by Lessee hereunder may be exercised whether or not a default or Event of Default has occurred and may be continuing hereunder, and whether or not this Lease is then in full force or effect. The terms of this Section 14.01 shall survive the expiration or termination of this Lease.

Section 14.02. Granting of Easements. From time to time during the Term, Lessee shall have the right, at Lessee's expense, to cause Lessor (i) to grant easements affecting the Leased Premises, (ii) to dedicate or convey, as required, portions of the Leased Premises for road, highway and utilities and other public purposes, and (iii) to execute petitions to have the Leased Premises or portions thereof annexed to any municipality or included within any utility, highway or other improvement or service district.

Section 14.03. Exercise of Option.

(a) To exercise the option to purchase the Leased Premises contained in Section 14.01, Lessee shall pay, or cause to be paid, on or prior to the purchase date, as the purchase price the sum of \$100.00; provided, however, if such option to purchase is exercised prior to the end of the Term, the purchaser shall also pay the PILOT payments described in Section 7.04 of this Lease prorated at the time of such purchase for the year in which termination occurs.

(b) On the purchase date for the purchase of the Leased Premises pursuant to Section 14.01, Lessor shall convey the Leased Premises to Lessee by quitclaim deed conveying Lessor's interest in the Leased Premises. Lessee shall pay all expenses relating to such conveyance.

(c) The terms of this Section 14.03 shall survive expiration or termination of this Lease.

## ARTICLE XV

### MISCELLANEOUS

Section 15.01. Applicable Law. This Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Tennessee.

**Section 15.02. Severability.** In the event that any clause or provision of this Lease shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

**Section 15.03. Notices and Demands.** All notices, certificates, demands, requests, consents, approvals and other similar instruments under this Lease shall be in writing, and shall be deemed to have been properly given and received if sent by United States certified or registered mail, (a) if to Lessee addressed to Lessee at Metro Knoxville HMA, LLC, c/o CHSPSC, LLC, 4000 Meridian Boulevard, Franklin, Tennessee, Attention: David Nicely, Regional President of Division I Tennessee Operations, with a copy to Metro Knoxville HMA, LLC, c/o CHSPSC, LLC, 4000 Meridian Boulevard, Franklin, Tennessee, Attention: General Counsel and with a copy to c/o Greg D. Meadows, Esq., Gentry, Tipton & McLemore, P.C., 900 S. Gay Street, Suite 2300, Knoxville, Tennessee 37902, or at such other address as Lessee from time to time may have designated by written notice to Lessor; and (b) if to Lessor addressed to Lessor, 17 Market Square No. 201, Knoxville, Tennessee 37902 Attention: Chairman and a copy to c/o R. Culver Schmid, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., 265 Brookview Centre Way, Suite 600, Knoxville, Tennessee 37919, with a copy to the City of Knoxville, P. O. Box 1631, Knoxville, Tennessee 37902, Attention: Law Director or at such other address as Lessor may from time to time have designated by written notice to Lessee.

**Section 15.04. Headings and References.** The headings in this Lease are for convenience of reference only and shall not define or limit the provisions thereof. All references in this Lease to particular Articles or Sections are references to Articles or Sections of this Lease, unless otherwise indicated.

**Section 15.05. Successors and Assigns.** The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their permitted respective successors and assigns.

**Section 15.06. Multiple Counterparts.** This Lease may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same instrument.

**Section 15.07. Expenses.** In the event that Lessor shall be required to engage legal counsel for the enforcement of any of the terms of this Lease (whether as a result of an Event of Default, modification of the Lease or any other reason related to the Project), whether or not such employment shall require institution of suit or other legal services required to secure compliance on the part of Lessee, Lessee shall be responsible for and shall promptly pay to Lessor all reasonable, documented, out-of-pocket expenses (including reasonable attorneys' fees) incurred by Lessor as a result of such default, modification or the Project.

**Section 15.08. No Liability of Officers, Etc.** No recourse under or upon any obligation, covenants or agreement contained in this Lease shall be had against any incorporator, members, directors, officers, employees or agents, as such, past, present or future, of Lessor or Lessee, either directly or through the Lessor or Lessee. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator,

member, director, officer, employee or agent is hereby expressly waived and released by Lessee and Lessor, respectively, as a condition of and consideration for the execution of this Lease.

**Section 15.09. No Liability of City, Officer, Etc.** The City of Knoxville, Tennessee, and its officials and agents shall not in any event be liable for the performance of any obligation or agreement of any kind whatsoever herein, and none of the agreements or obligations of Lessor contained in this Lease or otherwise shall be construed to constitute an indebtedness of the City of Knoxville, Tennessee, or its officials or agents, within the meaning of any constitutional or statutory provision whatsoever.

**Section 15.10. Limitation of Liability.** Notwithstanding any other provision hereof, Lessor's liability hereunder shall be limited to its interest in the Leased Premises and Lessee shall not have any recourse against any other assets of Lessor.

**Section 15.11. Sign.** During the construction of the Improvements, Lessor and the City of Knoxville shall be permitted to place a sign on the Project indicating their support of Lessee's activities on the Leased Premises so long as such sign is in compliance with all local laws and regulations.

**Section 15.12. Reports.** During the term of the Lease, Lessee shall, at the request of Lessor, assist Lessor by providing to Lessor, or its designee, information necessary to complete (a) reports required by the terms of Tenn. Code. Ann. §§7-53-305(e) and 4-17-303 (and all amendments thereto) in the forms attached hereto as **Exhibit E** (or any similar form provided by Lessor), (b) the PILOT Compliance Checklist in the form attached hereto as **Exhibit F**; and (c) the Certificate of Completion in the form attached hereto as **Exhibit D**. If requested by Lessor, Lessee shall certify such information and sign the reports in its capacity as Lessee under the terms of this Lease. In the event an IRS Form 1099-S or any other federal or state reports are required to be filed as a result of the conveyance of title to the Leased Land, Lessee shall be solely responsible for filing all such reports.

**Section 15.13. Memorandum of Lease and Purchase Option.** Each of the parties agrees that within thirty (30) calendar days following the Effective Date, it will execute and deliver in recordable form a memorandum of lease and purchase option, in the form attached hereto as **Exhibit G**. Lessee shall record such memorandum and shall pay the recording costs thereof.

**Section 15.14. Approvals by the City.** Any approval required or permitted to be given by the City hereunder may be given by the Mayor of the City or her or his designee and shall not require further approval of the legislative body of the City.

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IN WITNESS WHEREOF, THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KNOXVILLE, has executed this Lease by causing its name to be hereunder subscribed by its duly authorized officer; and Lessee has executed this Lease by causing their names to be hereunto subscribed, all being done as of the date and year first above written.

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF KNOXVILLE**

By: \_\_\_\_\_  
Name: John Craig  
Title: Chairman

**METRO KNOXVILLE HMA, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF LEASED LAND**

**EXHIBIT B**

**LIST OF ENCUMBRANCES PROVIDED FROM TITLE REPORT**

**EXHIBIT C**  
**JOINDER OF LESSOR**

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KNOXVILLE, a Tennessee public nonprofit corporation (the "Lessor"), as the landlord under that certain Lease Agreement (the "Lease") dated as of \_\_\_\_\_, 20\_\_ and between Lessor and \_\_\_\_\_, a \_\_\_\_\_ (the "Lessee"), as tenant, which Lease is evidenced by the Memorandum of Lease and Purchase Option recorded as Instrument No. \_\_\_\_\_, in the Register's Office of Knox County, Tennessee, and as the fee simple owner of the real property described on Exhibit A (the "Leased Premises"), hereby joins in the execution of that certain [Deed of Trust, Assignment of Leases and Rents and Security Agreement] (the "Deed of Trust") made by the Lessee for the benefit of \_\_\_\_\_ (the "Lender") to which this Joinder of Lessor is attached, at the request of Lessee solely for the purposes of (a) securing Lessee's obligation to pay to the Lender all of the indebtedness secured by the Deed of Trust; (b) subjecting and encumbering all of Lessor's right, title and interest in and to the Leased Premises to the Deed of Trust and all of its right, title and interest as Lessor under the Lease to the lien and charge created under and by the Deed of Trust; and (c) subordinating to the lien of the Deed of Trust all right, title and interest of Lessor in and to (i) the Leased Premises and (ii) the Lease. Lessor irrevocably grants, conveys and assigns to the Trustee named in the Deed of Trust and Trustee's successors and assigns, in trust, with power of sale, Lessor's right, title and interest in and to the Leased Premises and all of its right, title and interest as Lessor under the Lease, to have and to hold unto Trustee and Trustee's successors and assigns. As an accommodation party herein for purposes of the City of Knoxville payment in lieu of taxes ("PILOT") program, the Lessor, however, assumes none of the liability, financial or otherwise, of Lessee or any other person under the Deed of Trust by reason of this joinder. Notwithstanding any provision contained in this Joinder or in the Deed of Trust, it is agreed that the execution of this Joinder shall impose no liability whatsoever upon the Lessor, or any officer, director or trustee thereof for any obligation of the Lessee under the Deed of Trust. Anything to the contrary in this instrument notwithstanding, in the event of default by Lessee on any indebtedness secured hereby, the sole remedy against the Lessor is to cause the conveyance of any of its right, title and interest to the Leased Premises which is the subject of this Deed of Trust, and to divest Lessor of all of its rights, title and interest in and to this Leased Premises and in and to the Lease. Lender, by



accepting this Deed of Trust, agrees that it shall not sue for, seek or demand any deficiency judgment or other money judgment or to impose any liability whatsoever against the Lessor or its successors or assigns (including any incorporator, member, director, employee or agent) for repayment of any indebtedness secured hereby and the Lessor is fully exculpated therefrom by Lender and Lessee. The obligations of Lessor hereunder shall be non-recourse as to Lessor, and Lessor (and its officers, directors, employees and agents) shall have absolutely no personal or individual liability with respect to any of the terms, covenants and conditions of the Deed of Trust. Lessee and Lender hereby expressly agree that they shall look solely to the equity and the rights, title and interests of Lessor or its successor(s) interest in the Leased Premises and the Lease for the satisfaction of any remedy against the Lessor in the event of any breach by Lessor of any of the terms covenants and conditions of the Deed of Trust. This exculpation of Lessor's personal liability is absolute and without any exception whatsoever. Lessee and Lender acknowledge that Lessor is a governmental entity and is subject to the protection of the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated § 29-20-101 through 29-20-408 (as amended from time to time), and nothing contained herein shall constitute a waiver or release of Lessor's rights and protections under said Act. Nothing contained herein shall be construed as impairing, reducing, altering or affecting in any manner any of Lender's rights or remedies against Lessee or against the Leased Premises or the Lease, all of which are expressly reserved and remain in full force and effect.

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**SIGNATURE PAGE TO  
JOINDER OF LANDLORD**

IN WITNESS WHEREOF, the undersigned has hereunto set its hand as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF KNOXVILLE**  
a Tennessee public nonprofit corporation

By: \_\_\_\_\_  
John Craig, Chairman

STATE OF TENNESSEE  
COUNTY OF KNOX

Before me, the undersigned authority, a notary public, of the State and County aforesaid, personally appeared John Craig, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chairman of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KNOXVILLE, the within named bargainor, a Tennessee public nonprofit corporation, and that he as such \_\_Chairman, executed the foregoing instrument for the purposes therein contained, by signing the name of the public nonprofit corporation by himself as Chairman.

Witness my hand and seal, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT D**

**CERTIFICATE OF COMPLETION**  
**MADE BY**

**TO**

**THE INDUSTRIAL DEVELOPMENT BOARD CITY OF KNOXVILLE**

This certificate is made by \_\_\_\_\_, on behalf of \_\_\_\_\_, (referred to hereinafter as the "Lessee"), as its duly authorized representative.

The Industrial Development Board of the City of Knoxville, as lessor (the "IDB") and the Lessee previously entered into a Lease Agreement dated \_\_\_\_\_ (the "Lease") regarding the leasing of the real property and improvements located at \_\_\_\_\_, Knoxville, Tennessee and more particularly described in the Lease (such leased land, buildings, fixtures, and other improvements referred to collectively hereinafter as the "Project").

Pursuant to the terms of the Lease, the Lessee leased the Project from IDB and agreed to rehabilitate the improvements that constitute part of the Project by spending an amount not less than \$ \_\_\_\_\_ as described in Article XI of the Lease.

The rehabilitation and construction work performed by Lessee for the Project has been completed. In compliance with the requirements of the Lease, the Lessee wishes to certify and confirm to the IDB the actual costs expended in connection with the construction and rehabilitation of the Project.

Accordingly, the Lessee hereby certifies to the IDB as follows:

1. This Certificate is given by Lessee in order to comply with the terms of Article XI of the Lease and may be relied upon by IDB for the purpose described in the Lease is as outlined in the Certificate.
2. The representative of the Lessee executing this Certificate has been authorized by the members of the Lessee to execute and deliver this Certificate on behalf of the Lessee. The undersigned is the Lessee's \_\_\_\_\_ and is familiar with the Lessee's organization, activities and operations, including, but not limited to, work performed by or on behalf of the Lessee in connection with the Project.
3. To the best of the undersigned's actual knowledge, each of the representations and warranties made on behalf of the Company in this Certificate are true, accurate and complete in all material respects.

4. The costs incurred by the Lessee in completing the acquisition, construction, and rehabilitation of the Project are more particularly described as follows (referred to hereinafter collectively as the "Costs of Construction").
- a. Fair Market Value of Land: \$\_\_\_\_\_.
  - b. Cost of construction and rehabilitation of improvements: \$\_\_\_\_\_.
  - c. Other costs relating to Project paid by Lessee: \$\_\_\_\_\_.
  - d. Total costs paid by Lessee for the Project: \$\_\_\_\_\_.
5. If requested by the IDB the Lessee shall attach hereto as **Exhibit A** the contracts, documents, or other similar agreements that substantiate the foregoing amounts.
6. All the foregoing Costs of Construction have been completed for the Project and paid by Lessee. Lessee has no right to receive any reimbursement or return of such funds constitutes part of the Costs of Construction.

IN WITNESS WHEREOF, the undersigned authorized representative of the Lessee has executed and delivered this Certificate of Completion on behalf of the Lessee as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A**  
**of**  
**Certificate of Completion**

**Construction Contracts, Certificates of Completion,  
Payment of Invoices, Etc.**

**EXHIBIT E**

**COST/BENEFIT ANALYSIS AND REPORTS**

[Subject to Lessee's review and approval]

**EXHIBIT F**

**PILOT COMPLIANCE CHECKLIST**

**[Subject to Lessee's review and approval]**

**EXHIBIT G**

**MEMORANDUM OF LEASE AND PURCHASE OPTION**

**THIS INSTRUMENT PREPARED BY:  
R. CULVER SCHMID  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC  
265 BROOKVIEW CENTRE WAY, SUITE 600  
KNOXVILLE, TN 37919**

**MEMORANDUM OF LEASE AND PURCHASE OPTION**

THIS MEMORANDUM OF LEASE AND PURCHASE OPTION, dated as of \_\_\_\_\_, 20\_\_\_\_  
(hereinafter this "Memorandum") between **THE INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF KNOXVILLE** ("Lessor"), having a mailing address of 17 Market Square, Suite 201, Knoxville,  
Tennessee 37902-1405 and \_\_\_\_\_, a Tennessee  
\_\_\_\_\_, ("Lessee"), having a mailing address of \_\_\_\_\_.

**WITNESSETH:**

WHEREAS, Lessor and Lessee entered into a Lease dated as of the date hereof (the "Lease"), whereby certain property (the "Leased Property") consisting of the parcel of land described on **Exhibit A** attached hereto and the improvements thereon was demised unto Lessee; and

WHEREAS, Lessor and Lessee desire to enter into this Memorandum, which is to be recorded in order that third parties may have notice of the estate of Lessee in the Leased Property.

NOW, THEREFORE, Lessor, in consideration of the rents and covenants provided for in the Lease to be paid and performed by Lessee, does hereby demise and let unto Lessee the Leased Property on the terms and subject to the conditions set forth in the Lease. The term of this Memorandum shall commence on \_\_\_\_\_, 20\_\_\_\_ and continue until \_\_\_\_\_, 20\_\_\_\_.

All the terms, conditions, provisions, and covenants of the Lease are incorporated in this Memorandum by reference as though written out at length herein. Copies of the Lease are held by both Lessor and Lessee at their respective addresses first set forth above.

Lessee has an exclusive and irrevocable option to purchase the Leased Property on the terms and conditions set forth in the Lease.

This Memorandum is prepared for the purposes of recording a notification as to the existence of the Lease but in no way modifies the express and particular provisions of the Lease. In the event of a conflict between the terms of the Lease and the terms of this Memorandum, the terms of the Lease shall control. This Memorandum may be executed in any number of separate counterparts. All of such



counterparts, when so executed and delivered, shall be deemed to be originals and shall together constitute one document.

IN WITNESS WHEREOF, the parties hereto have set their hands or caused this instrument to be executed as of the day and date first above written.

**THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE CITY OF KNOXVILLE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TENNESSEE     )  
                                      )  
COUNTY OF KNOX         )

Before me, the undersigned authority, a Notary Public with and for the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon his oath acknowledged himself to be the Chairman of **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF KNOXVILLE**, the within-named bargainor, a public not-for-profit corporation, and that he, as such Chairman, executed the foregoing instrument for the purpose therein contained by signing the name of said corporation as such officer.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF TENNESSEE     )  
  )  
COUNTY OF KNOX         )

Personally appeared before me the undersigned authority, a Notary Public in and for said County and in said State, \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, the within-named bargainor, a Tennessee limited liability company, and that he as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as its \_\_\_\_\_.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_